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Presidential Documents

Title 3—

The President

Presidential Determination No. 2009–16 of March 11, 2009

Unexpected Urgent Refugee and Migration Needs Related To the Continuing Conflict In Pakistan

Memorandum for the Secretary of State

By the authority vested in me by the Constitution and the laws of the United States, including section 2(c)(1) of the Migration and Refugee Assistance Act of 1962 (the ''Act''), as amended (22 U.S.C. 2601), I hereby determine, pursuant to section 2(c)(1) of the Act, that it is important to the national interest to furnish assistance under the Act in an amount not to exceed $8 million from the United States Emergency Refugee and Migration Assistance Fund for the purpose of meeting unexpected and urgent refugee and migration needs, including by contributions to international, governmental, and nongovernmental organizations and payment of administrative expenses of the Bureau of Population, Refugees, and Migration of the Department of State.

You are authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, March 11, 2009

[FR Doc. E9–6018
Filed 3–17–09; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

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

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 309

[Docket No. FSIS–2008–0022]

RIN 0583–AD35

Requirements for the Disposition of Cattle that Become Non-Ambulatory Disabled Following Ante-Mortem Inspection

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat inspection regulations to require that all cattle that are non-ambulatory disabled at an official establishment, including those that become non-ambulatory disabled after passing ante-mortem inspection, be condemned and disposed of properly. In addition, this rule requires that establishments notify FSIS inspection personnel when cattle become non-ambulatory disabled after passing ante-mortem inspection. FSIS is taking this action to better ensure effective implementation of inspection and humane handling requirements at official establishments.

DATES: *Effective Date:* This regulation is effective April 17, 2009.

FOR FURTHER INFORMATION CONTACT: Dr. Daniel Engeljohn, Deputy Assistant Administrator, Office of Policy and Program Development, FSIS, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250–3700, (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Background

On August 29, 2008, FSIS published a proposed rule to amend the regulations in 9 CFR 309.3(e) to remove the provision that allows FSIS inspection personnel to determine, on a case-by-case basis, the disposition of cattle that become non-ambulatory disabled after they have passed ante-mortem inspection (''Requirements for the Disposition of Cattle That Become Non-Ambulatory Disabled Following Ante-Mortem Inspection'' (73 FR 50889)). In that proposed rule, FSIS also proposed to require that establishments notify FSIS inspection personnel when cattle become non-ambulatory disabled after passing ante-mortem inspection.

The Agency issued the proposed rule in response to a January 2008 investigation into events at the Hallmark/Westland Meat Packing Company that highlighted a vulnerability in our inspection system and that disclosed instances where cattle had been inhumanely handled. Based on these findings, FSIS determined that the proposed amendments to 9 CFR 309.3 were necessary to ensure that animals that may be unfit for human food do not proceed to slaughter, and to improve the effectiveness and efficiency of our inspection program. The Agency concluded that the revision proposed would reduce uncertainty in determining the proper disposition of non-ambulatory disabled cattle and would eliminate the time FSIS public health veterinarians (PHVs) spend determining whether or not an animal can be tagged as ''U.S. Suspect'', proceed to slaughter, and then re-inspected after slaughter, thereby increasing the time inspection program personnel can focus on other inspection activities (73 FR at 50890–50891). FSIS also concluded that the proposal would improve humane handling practices and preclude establishments from attempting to force non-ambulatory disabled cattle to rise.

FSIS also proposed to clarify in 9 CFR 309.3(e) that establishments are required to specifically notify FSIS inspection personnel when cattle become non-ambulatory disabled after passing ante-mortem inspection. The Agency proposed to make clear that establishments have an affirmative obligation to make FSIS personnel aware when an animal goes down.

This final rule adopts the proposed amendments to 9 CFR 309.3(e) without changes. These amendments will ensure more effective and efficient inspection procedures under the Federal Meat Inspection Act (FMIA), 21 U.S.C. 603, and improved compliance with the humane handling requirements established pursuant to 21 U.S.C. 603(b).

In the preamble to the proposed rule, FSIS stated that it would expect custom operators not to slaughter cattle that become non-ambulatory disabled after they are delivered to the custom operation (73 FR at 50890–50891). Based on comments received and after further consideration of the issue, FSIS has decided to continue to permit custom operators to slaughter for human food cattle that become non-ambulatory disabled after they are delivered to a custom operation if the custom operator does not observe any other condition that would render the animal unfit for human food.

Comments and Responses

FSIS received approximately 58,000 comments in response to the proposed rule. Among the commenters were private citizens, animal welfare advocacy organizations, meat and dairy trade associations, consumer advocacy organizations, organizations that represent meat processors, cattlemen and cattle feeders associations, a stockgrowers association, a state department of agriculture, a veterinary medical association, a physician's committee, and a national restaurant chain. The majority of comments were form letters submitted by private citizens and animal welfare organizations concerned about the humane treatment of animals.

Comment: The majority of private citizen, animal welfare advocacy organization, and consumer advocacy organization comments supported the adoption of the proposed rule requiring the condemnation of all non-ambulatory disabled cattle, including those that become non-ambulatory disabled after passing ante-mortem inspection. The commenters asserted that the rule is necessary to improve food safety and to ensure the humane handling of non-ambulatory disabled cattle at slaughter.

The commenters asserted that the current regulatory provision for a case-by-case determination concerning the disposition of certain non-ambulatory disabled cattle created the unintended effect of encouraging establishments to present weakened cattle for ante-

mortem inspection. The commenters argued that this unintended circumstance encourages the abusive treatment of cattle.

Response: FSIS agrees with the commenters that this rule will foster more efficient and effective ante-mortem inspection procedures and better ensure compliance with humane handling requirements. FSIS also agrees with commenters that the rule is necessary to preclude establishments from attempting to force non-ambulatory disabled animals to rise for FSIS re-inspection. The Agency also believes that it is important to clarify whether establishments must specifically notify FSIS when cattle become non-ambulatory disabled after passing ante-mortem inspection to ensure that animals not eligible for slaughter do not enter the slaughter operation, and that they are properly and humanely handled and disposed of in accordance with regulatory requirements.

Comment: Several meat processor and cattlemen associations requested that the Agency reevaluate the decision regarding the custom slaughter exemption for personal use.

Response: After carefully considering this issue, the Agency has decided to continue to allow custom operators to slaughter for human food cattle that become non-ambulatory disabled after they are delivered to a custom slaughter facility if the operator does not observe any other condition that would render the animal unfit for human food. Cattle slaughtered under a custom exemption and the associated beef products are not sold in commerce to the public. Custom exempt product is required to be delivered to the owner of the livestock and only for the owner's personal use.

In addition, based upon the 2007 FSIS survey data discussed below, the Agency estimates that the number of animals that would become non-ambulatory disabled after arriving at a custom operation is so small as to be de minimis.

Comment: Most of the private citizen, animal welfare advocacy organization, and consumer advocacy organization comments that supported the proposed prohibition on the slaughter of all non-ambulatory disabled cattle requested that the Agency extend the ban to cover all livestock.

Response: The proposed rule addressed ante-mortem inspection and humane handling issues related to non-ambulatory disabled cattle, not other livestock. This issue is outside the scope of this rulemaking. However, as the Agency has noted in a prior rulemaking (72 FR 38722), it plans to evaluate measures that may be necessary to ensure the humane handling of livestock.

Comment: Most of the private citizen, animal welfare advocacy organization, and consumer advocacy organization comments that supported the ban on the slaughter of non-ambulatory disabled cattle requested that the Agency extend this prohibition to auction markets, stockyards, and transport vehicles.

Response: FSIS is making no changes based upon these comments. The Agency has jurisdiction only at official establishments. FSIS has no authority over the handling of cattle at auction markets, stockyards, or in transport vehicles before they reach official establishments.

Comment: Several of the private citizen, animal welfare advocacy organization, and consumer advocacy organization comments recommended that non-ambulatory disabled cattle be immediately euthanized. Several animal welfare advocacy organizations comments also recommended that FSIS take additional actions to ensure humane handling of livestock, including assigning more inspectors to enforce humane handling procedures, requiring video surveillance, and conducting undercover investigations.

Response: The Humane Methods of Slaughter Act of 1978 (HMSA) (Section 1901, 1902, and 1906) requires that livestock, including non-ambulatory disabled cattle, be humanely handled in connection with slaughter. Because the HMSA and regulations require that non-ambulatory disabled cattle be humanely handled, FSIS has determined that it is not necessary to amend this regulation because humane handling requires that such cattle be promptly euthanized. FSIS does not believe that it is necessary to require video surveillance. FSIS has issued instructions to field personnel concerning humane handling requirements for non-ambulatory disabled livestock (Directive 6900.1). FSIS will revise instructions to the field and its operational procedures as necessary to implement this final rule to include consideration of an increase, when appropriate, in the number of humane handling verification activities that inspection program personnel perform.

Comment: Several industry commenters who supported the proposal recommended that FSIS make clear its procedure for determining when a bovine animal is non-ambulatory disabled.

Response: FSIS determined that no additional changes to the regulations were necessary to address this comment. The regulations define non-ambulatory disabled livestock, which includes bovine, as, ''livestock that cannot rise from a recumbent position or cannot walk, including, but not limited to, those with broken appendages, severed tendons or ligaments, nerve paralysis, fractured vertebral column or metabolic conditions'' (9 CFR 309.2(b)).

FSIS Directive 6100.1 ''Ante-mortem Livestock Inspection'' and an associated ''Q and A'' document provide guidance to FSIS inspection personnel for determining whether an animal is non-ambulatory disabled. FSIS PHVs are trained to determine when a bovine is unable to rise or unable to walk. FSIS will, of course, revise its directives as necessary to ensure implementation of this final rule.

Comment: Several industry commenters who opposed the proposed amendment stated that the current regulatory provision should remain unchanged, allowing cattle that become non-ambulatory disabled after passing ante-mortem inspection to be reevaluated by an FSIS PHV.

Response: FSIS disagrees with the comment. The events at the Hallmark/Westland establishment demonstrate that FSIS inspection personnel are not always notified when cattle become non-ambulatory disabled after they pass ante-mortem inspection. Thus, under the former regulations, and specifically at Hallmark/Westland, non-ambulatory disabled cattle that had not consistently received proper and adequate ante-mortem inspection were slaughtered for human food. In addition, the events at Hallmark demonstrate that requiring re-inspection of cattle that become non-ambulatory disabled after ante-mortem inspection may have created an incentive for establishments to inhumanely attempt to force these animals to rise. Therefore, FSIS has determined that a change in the regulation is needed to ensure more effective and efficient implementation of inspection procedures and compliance with humane handling requirements at official establishments.

Comment: Several industry commenters opposed the proposed amendment because they believed that changing the regulation would be a significant expense for small and very small meat processors. However, the comments did not include any data to support this assertion. The commenters stated that having FSIS PHVs re-evaluate the animal provides the establishments with the ability to salvage an animal that may have slipped and broken a leg, or temporarily became too exhausted to move to slaughter.

Response: As noted above, FSIS inspection personnel have not always

been notified when cattle become non-ambulatory disabled after they pass ante-mortem inspection. In addition, requiring re-inspection of cattle that become non-ambulatory disabled after ante-mortem inspection may have created an incentive for establishments to inhumanely attempt to force these animals to rise. Allowing this re-inspection may have encouraged establishments or livestock producers to hold ill or injured cattle from slaughter longer in an attempt to allow them to sufficiently recover to pass the initial ante-mortem inspection before collapsing.

Further, the re-inspection rule may have provided an incentive for livestock producers to hold cattle until they were already weakened. Holding dairy cattle until they become exceptionally old or weak before sending them to slaughter allows producers to extract as much milk as possible in the hope that they are able to pass the initial ante-mortem inspection before going down. Sending such weakened cattle to slaughter increases the chances that they will go down and then be subjected to conditions that are inhumane. This revision of the rule removes the incentive to send such weakened cattle to slaughter and decreases the chances of inhumane conditions.

Therefore, the amendments in this rule are needed to ensure the effective implementation of ante-mortem inspection and humane handling requirements at all official establishments, including small or very small facilities. Also, as discussed below, the Agency's analysis of the estimated cost of this rule to small and very small establishments would be about $883,500 to $1,342,600 annually, which is insignificant compared to the value of their annual production of about $8.4 billion. These commenters did not explain the basis for their assertion or offer alternative data demonstrating the inadequacy of the data used by the Agency to estimate the costs of this rule.

Comment: Several industry commenters who opposed the proposed amendment stated that the risk of BSE is very low because of interlocking safeguards that the U.S. has implemented, and that, thus, the change to current policies is unnecessary.

Response: This final rule may help to reinforce the existing prohibition on the slaughter of non-ambulatory disabled cattle by ensuring the humane disposition of such animals at official establishments. In addition, FSIS has concluded that this final rule will better ensure more efficient and effective implementation of inspection and humane handling requirements at official establishments.

Comment: One industry commenter criticized the economic analysis because FSIS stated that it is difficult to estimate the passing-through of industry cost to consumers.

Response: FSIS calculated the cost impact using the best data that are available to the Agency, which includes both survey data and market data. The cost impact is at most 0.01% of small and very small establishments' annual production. Therefore, there is strong evidence for concluding that the cost of the rule is not significant. The costs that industry will pass through to consumers do not affect the total cost estimate. In the proposed and final Executive Order 12866 and Regulatory Flexibility Act analyses, FSIS recognizes that industry will pass some of its costs to consumers.

The commenter did not explain the basis for concluding that the data used by FSIS was inadequate. In addition, the Agency did not receive any data suggesting the cost estimates that it presented in the proposal were inaccurate. Therefore, the Agency is not revising its original cost estimates.

Comment: One meat association that supported the proposal stated that the Agency should make clear that the amendments in this final rule that prohibit the slaughter of non-ambulatory disabled cattle, including those that become non-ambulatory disabled after passing ante-mortem inspection, do not affect the current regulatory provisions concerning the setting aside of non-ambulatory veal calves.

Response: The provisions of this final rule do not affect 9 CFR 309.13. Under the final rule, all non-ambulatory disabled cattle that are offered for slaughter, including non-ambulatory veal calves, must be condemned and disposed of in accordance with 9 CFR 309.13. Section 309.13 of 9 CFR applies after livestock, including veal calves, have been condemned. Among other provisions, 9 CFR 309.13(b) provides that veal calves that are unable to rise from a recumbent position and walk because they are tired or cold may be set apart and held for treatment but only under appropriate FSIS supervision.

Comment: One industry commenter requested that the Agency clarify that the prohibition of the slaughter of non-ambulatory disabled cattle has no bearing on the stunning of some breeds in the outside pen prior to entering the slaughter facility.

Response: All cattle, regardless of the breed, are subject to ante-mortem inspection at official establishments. Some cattle breeds, such as Longhorns and Watusis, are typically stunned in outside pens after ante-mortem inspection because the width of their horns prevents them from entering slaughter facilities. After stunning, these animals are then moved inside the facility. This proposed rule has no effect on this practice. However, if such cattle are non-ambulatory disabled, they cannot proceed to slaughter and must be condemned and properly disposed of.

Executive Order 12988

This final rule has been reviewed under the Executive Order 12988, Civil Justice Reform. Under this rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no retroactive proceedings will be required before parties may file suit in court challenging this rule. Following the proposed rule, FSIS did not obtain any new data or receive specific comments concerning the effects of this rule that would lead FSIS to change its estimates in the proposed Executive Order 12866 and Regulatory Flexibility Act analysis. Therefore, the Executive Order 12866 and the Regulatory Flexibility Act analysis below are consistent with the analyses in the proposed rule (73 FR 50891).

Executive Order 12866 and the Regulatory Flexibility Act

This rule was reviewed by the Office of Management and Budget under Executive Order 12866 and was determined to be significant.

This rule will require that all cattle that are non-ambulatory disabled at any time prior to slaughter in official establishments, including those that become non-ambulatory disabled after passing ante-mortem inspection, be condemned and disposed of properly. This rule is necessary to better ensure effective and efficient implementation of inspection procedures and of humane handling requirements.

Cost of the Final Action

Under this rule, the beef industry will lose the market value of certain non-ambulatory disabled cattle that the establishments could have slaughtered for human food after the cattle passed the re-inspection. Based on the Agency's 2007 survey data, out of the approximately 33.7 million cattle slaughtered in 2007,[1] FSIS estimates that about 1,300 cattle—about 600 cull cattle (i.e., mostly cows and bulls) and

[1] FSIS Animal Disposition Reporting System (ADRS) database, 2007. Number does not include veal calves or other calves.

700 steers and heifers—were in this category.[2] Data from the Agricultural Marketing Service (AMS) indicate that the market value for a cull cattle carcass and parts is between $500 and $1,000, and the market value for a steer or heifer carcass and parts is between $900 and $1,100 (National Weekly Cattle and Beef Summary and National Weekly Cow and Boneless Beef Summary, USDA Livestock & Grain Market News (*http://www.ams.usda.gov/LSMarketNews*), June 2008). Therefore, the estimated total market value of the carcasses and parts from cattle that would be condemned under this final rule would be in the range of $930,000 to $1,370,000 per year. This estimate is conservative in that it does not take into account the salvage value less the cost for handling and disposal of the condemned carcasses.

Although the above analysis focuses on costs to the beef industry, the industry eventually will pass at least some part of the additional cost to consumers through higher prices or reduced production. This is an indirect cost to the consumers and is difficult to estimate ex-ante without data.

Benefits of the Final Rule

This final rule is intended to ensure more effective and efficient implementation of inspection procedures and improve compliance with humane handling requirements. This action will provide efficiencies to food safety inspection by removing the regulatory provision that permits establishments to seek re-inspection to determine whether certain non-ambulatory cattle can be tagged as ''U.S. Suspect'' if those cattle become non-ambulatory disabled after passing ante-mortem inspection.

Regulatory Flexibility Analysis

The FSIS Administrator has determined that this final rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). In the Final Regulatory Impact Analysis of SRM final rule,[3] the Agency estimated that the rule would possibly affect 2,026 small and very small beef slaughter establishments. This includes 680 federally inspected establishments and 1,346 state inspected establishments. Such potential effects are not, however, expected to be significant given the very small number of cattle involved.

The estimated total annual cost of this rule of $930,000 to $1,370,000 is for the entire beef industry. The Agency estimates that small and very small establishments slaughter about 95% to 98% of the 1,300 non-ambulatory disabled cattle estimated from the survey. Therefore, the estimated annual cost to the small and very small establishments would be about $883,500 to $1,342,600, which is insignificant compared to the value of their annual production of about $8.4 billion.[4]

Paperwork Reduction Act

This rule has been reviewed under the Paperwork Reduction Act and imposes no new paperwork or recordkeeping requirements.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this proposed rule, FSIS will announce it online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/2009Interim_&_Final_Rules_Index/index.asp*. FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an e-mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/*. Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

List of Subjects in 9 CFR Part 309

Ante-mortem inspection.

■ For the reasons discussed in the preamble, FSIS is amending 9 CFR Chapter III as follows:

PART 309—ANTE-MORTEM INSPECTION

■ 1. The authority citation for part 309 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

■ 2. Section 309.3(e) is revised to read as follows:

§ 309.3 Dead, dying, disabled, or diseased and similar livestock.

* * * * *

(e) Establishment personnel must notify FSIS inspection personnel when cattle become non-ambulatory disabled after passing ante-mortem inspection. Non-ambulatory disabled cattle that are offered for slaughter must be condemned and disposed of in accordance with § 309.13.

Done at Washington, DC, on: March 16, 2009.

Alfred Almanza,

Administrator.

[FR Doc. E9–5987 Filed 3–16–09; 4:15 pm]

BILLING CODE 3410–DM–P

[2] To estimate the number of such cattle, FSIS conducted two surveys on the number of cattle that became non-ambulatory after ante-mortem inspection then passed the re-inspection in July through December 2007. One survey focused on establishments that slaughter predominantly cull cattle, and the other focused on ones that slaughter steers and heifers. FSIS extrapolated the 6-month data to annual figures.

[3] See Economic Analysis: Final Regulatory Impact Analysis Final Rule, Prohibition of the Use of Specified Risk Materials for Human Food and Requirements for the Disposition of Non-Ambulatory Disabled Cattle Offered for Slaughter, and Prohibition of the Use of Certain Stunning Devices Used to Immobilize Cattle during Slaughter (FSIS Docket No. 03–025F), FSIS/USDA, June 28, 2007. *http://www.fsis.usda.gov/Regulations_&_Policies/2007_Interim_&_Final_Rules_Index/index.asp*.

[4] The value is measured by dressed carcass equivalent, ibid., pp.161–169.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0983; Airspace Docket No. 08–ASO–14]

Modification of Class D Airspace; MacDill AFB, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, confirmation of effective date.

SUMMARY: This action confirms the effective date of the direct final rule published in the **Federal Register** (73 FR 60622) that modifies Class D Airspace at MacDill AFB, FL to reflect

the times when the controlled airspace is effective due to the fact that MacDill AFB Air Traffic Control Tower no longer operates on a full time basis.

DATES: Effective 0901 UTC, January 15, 2009. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, Operations Support Group, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; Telephone (404) 305–5610, Fax 404–305–5572.

SUPPLEMENTARY INFORMATION:

Confirmation of Effective Date

The FAA published this direct final rule with a request for comments in the **Federal Register** on October 14, 2008 (73 FR 60622), Docket No. FAA–2008–0983; Airspace Docket No. 08–ASO–14. The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on January 15, 2009. No adverse comments were received, and thus this notice confirms that effective date.

* * * * *

Issued in College Park, Georgia, on February 25, 2009.

Barry A. Knight,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. E9–5750 Filed 3–17–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30656 Amdt. No. 3312]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective March 18, 2009. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 18, 2009.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located;
3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or
4. 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.*

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *http://www.nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Harry J. Hodges, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPs, Takeoff Minimums and/or ODPs. The complete regulators description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this

amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before adopting these SIAPs, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule '' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on March 6, 2009.

John M. Allen,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 09 April 2009

Greenville, MS, Mid Delta Regional, GPS RWY 36L, Orig, CANCELLED
Greenville, MS, Mid Delta Regional, RNAV (GPS) RWY 36L, Orig
Erwin, NC, Harnett Rgnl Jetport, LOC/DME RWY 5, Orig

Effective 07 MAY 2009

Ketchikan, AK, Ketchikan Intl, KETCHIKAN FIVE Graphic Obstacle DP
Ketchikan, AK, Ketchikan Intl, SKOWL ONE Graphic Obstacle DP
Ketchikan, AK, Ketchikan Intl, Takeoff Minimums and Obstacle DP, Amdt 8
Mobile, AL, Mobile Downtown, RNAV (GPS) RWY 14, Amdt 1
Mobile, AL, Mobile Downtown, RNAV (GPS) RWY 18, Amdt 1
Mobile, AL, Mobile Downtown, RNAV (GPS) RWY 36, Amdt 1
Mobile, AL, Mobile Downtown, Takeoff Minimums and Obstacle DP, Amdt 1
Warren, AR, Warren Muni, RNAV (GPS) RWY 3, Orig-A
Warren, AR, Warren Muni, RNAV (GPS) RWY 21, Orig-A
Monterey, CA, Monterey Peninsula, GPS RWY 28L, Amdt 1B, CANCELLED
Monterey, CA, Monterey Peninsula, RNAV (GPS) Y RWY 28L, Orig
Monterey, CA, Monterey Peninsula, RNAV (RNP) Z RWY 28L, Orig
Riverside, CA, Riverside Muni, VOR-B, Orig-A
San Bernardino, CA, San Bernardino International, NDB RWY 6, Amdt 1
San Bernardino, CA, San Bernardino International, RNAV (GPS) Y RWY 6, Orig
San Bernardino, CA, San Bernardino International, RNAV (GPS) Z RWY 6, Orig
Montrose, CO, Montrose Rgnl, MONTROSE ONE Graphic Obstacle DP
Leesburg, FL, Leesburg Intl, RNAV (GPS) RWY 13, Amdt 1
Valdosta, GA, Valdosta Rgnl, RNAV (GPS) RWY 35, Orig
Charles City, IA, Northeast Iowa Rgnl, LOC RWY 12, Orig-F
Sioux City, IA, Sioux Gateway/Col Bud Day Field, Takeoff Minimums and Obstacle DP, Amdt 3
McCall, ID, Mc Call Muni, MCCALL ONE Graphic Obstacle DP
Pocatello, ID, Pocatello Rgnl, RNAV (GPS) RWY 21, Amdt 1
Twin Falls, ID, Joslin Field-Magic Valley Rgnl, NDB RWY 25, Amdt 6
Twin Falls, ID, Joslin Field-Magic Valley Rgnl, RNAV (GPS) RWY 7, Orig
Twin Falls, ID, Joslin Field-Magic Valley Rgnl, RNAV (GPS) RWY 25, Orig
Twin Falls, ID, Joslin Field-Magic Valley Rgnl, VOR RWY 7, Amdt 4
Chicago, IL, Chicago-O'Hare Intl, LOC RWY 4L, Amdt 21
Norwood, MA, Norwood Memorial, LOC RWY 35, Amdt 10A
Detroit/Grosse Ile, MI, Grosse Ile Muni, NDB RWY 4, Amdt 2
Detroit/Grosse Ile, MI, Grosse Ile Muni, RNAV (GPS) RWY 4, Orig
Detroit/Grosse Ile, MI, Grosse Ile Muni, RNAV (GPS) RWY 22, Amdt 1
Detroit/Grosse Ile, MI, Grosse Ile Muni, VOR-A, Amdt 7
Bemidji, MN, Bemidji Rgnl, RNAV (GPS) RWY 13, Orig
Bemidji, MN, Bemidji Rgnl, RNAV (GPS) RWY 31, Amdt 1
Bemidji, MN, Bemidji Rgnl, VOR/DME OR TACAN RWY 31, Amdt 12B, CANCELLED
Bemidji, MN, Bemidji Rgnl, VOR OR GPS RWY 13, Amdt 16B, CANCELLED
Ord, NE, Evelyn Sharp Field, NDB RWY 13, Amdt 5
Reno, NV, Reno/Tahoe Intl, RNAV (RNP) Z RWY 16L, Orig-A
Reno, NV, Reno/Tahoe Intl, RNAV (RNP) Z RWY 16R, Orig-A
Gainesville, TX, Gainesville Muni, RNAV (GPS) RWY 17, Amdt 1
Gainesville, TX, Gainesville Muni, Takeoff Minimums and Obstacle DP, Orig

CORRECTION: On February 24, 2009 (74 FR 8180), the FAA published several Amendments in Docket No. 30649, Amdt No. 3306 to Part 97 of the Federal Aviation Regulations under sections 97.23 and 97.29. The following entries are hereby corrected to be effective for April 9, 2009:

Parkersburg, WV, Mid-Ohio Valley Regional, RNAV (GPS) RWY 3, Amdt 1
Parkersburg, WV, Mid-Ohio Valley Regional, RNAV (GPS) RWY 21, Amdt 1
Parkersburg, WV, Mid-Ohio Valley Regional, RNAV (GPS) Y RWY 3, Orig, CANCELLED
Parkersburg, WV, Mid-Ohio Valley Regional, RNAV (GPS) Y RWY 21, Orig, CANCELLED
Parkersburg, WV, Mid-Ohio Valley Regional, Takeoff Minimums and Obstacle DP, Amdt 2
Parkersburg, WV, Mid-Ohio Valley Regional, VOR RWY 21, Amdt 17

[FR Doc. E9–5663 Filed 3–17–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

14 CFR Part 382

[Dockets OST–2004–19482; OST–2005–22298; OST–2006–23999]

RINs 2105–AC97; 2105–AC29; 2105–AD41

Nondiscrimination on the Basis of Disability in Air Travel

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Final rule; correction.

SUMMARY: The Department of Transportation published the new Air Carrier Access Act (ACAA) rule in the **Federal Register** on Tuesday, May 13, 2008 (73 FR 27614). This document corrects editorial errors or omissions and clarifies ambiguities in the preamble, rule text and appendix of the final rule.

DATES: *Effective Date:* These corrections are effective May 13, 2009.

FOR FURTHER INFORMATION CONTACT: Kathleen Blank Riether or Blane A. Workie, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590, 202–366–9342 (voice), 202–366–7152 (fax), *kathleen.blankriether@dot.gov* or *blane.workie@dot.gov* (e-mail). TTY users may reach both individuals via the Federal Relay Service toll-free at 800–877–8339. Arrangements to receive this notice in an alternative format may also be made by contacting the above named individuals.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Transportation published the final Air Carrier Access Act rule, Nondiscrimination on the Basis of Disability in Air Travel (Part 382), in the **Federal Register** on May 13, 2008, (73 FR 27614), applying it to foreign carriers, adding new provisions concerning accommodations for passengers who use medical oxygen and who are deaf or hard-of-hearing, and reorganizing the entire rule (FR Doc. 08–1228). The final rule, which will become effective on May 13, 2009, contained some editorial errors, inconsistencies, and omissions, which this document corrects. We have set forth these corrections below. The provisions in this correction notice are effective as if they had been included in the final rule. Accordingly, the corrections are effective as of May 13, 2009.

II. Summary of the Corrections to the Final ACAA Rule

The Department received inquiries about whether carriers should file a conflict of law waiver request when the conflict of law in question is anticipated in the text of Part 382 itself because we believed the existence of foreign requirements parallel to those of the U.S. Federal Aviation Administration (FAA) was likely. The question was raised specifically in reference to section 382.87(a), which prohibits seating restrictions for passengers with disabilities, except to comply with an FAA or applicable foreign government safety requirement. We have added language on page 27616 of the **Federal Register** indicating the Department's intent that in such instances carriers nonetheless should strongly consider submitting a conflict of law waiver request as outlined in section 382.9(a). Of course, as a compliance matter if such a conflict exists, the filing of the waiver request would not be required to avoid enforcement action. On pages 27618, 27634, 27640, 27648, 27655, we have corrected typographical errors to the preamble.

Due to an oversight, food service locations were included in the preamble discussion of requirements for providing passengers with disabilities assistance in accessing key functional areas in the terminal. Prior to issuing the final rule, the Department had decided to exclude food service locations from the terminal areas to which carriers are required to provide access. Section 382.91(b) and the corresponding analysis on page 27654 of the preamble reflect this exclusion as the Department intended. We have therefore deleted the remaining overlooked references to food service locations in the preamble discussion on page 27621.

U.S. carriers have submitted inquiries about conflicts of law affecting the services required by Part 382 that the U.S. carrier must ensure on code share flights between two foreign points operated by their foreign-carrier code share partners on behalf of passengers traveling under the U.S. carrier's code. In response to these inquiries, the Department has added a clarification paragraph to the analysis of section 382.9 on page 27647 of the preamble.

Prior to issuing the final rule, the Department decided to exclude from the final rule certain proposed requirements in section 382.43 for accommodating individuals with visual impairments. The Department's intention was to seek further information from the public concerning these requirements through a Supplemental Notice of Proposed Rulemaking (SNPRM). We have deleted references to these requirements that were inadvertently overlooked in the title of section 382.43 on page 27650 and in the analysis on page 27651 of the preamble. We are also deleting a reference to these requirements that, due to an oversight, remained in the section title on page 27666 of the published rule.

We have also revised the title of section 382.53 as it appears both on page 27652 of the preamble and on page 27666 to be consistent with the section title as it appears in the rule text on page 27673.

On page 27653 of the preamble in the Section-by-Section Analysis of section 382.71 we have aligned the language describing the accessibility standard for replacement or refurbishing of cabin features with its counterpart language in the rule text on page 27675.

On page 27655 of the preamble we have corrected an erroneous reference to the location of the service animal guidance in the final rule and have added an omitted reference to licensed mental health professionals and medical doctors specifically treating a passenger's recognized mental or emotional disability.

To clarify the Department's intent concerning documentation that may be required as a condition for allowing an emotional support or psychiatric service animal to travel in the cabin, we have added language on page 27659 of the Guidance Concerning Service Animals stating carriers should also accept documentation provided by a medical doctor for passengers traveling with an emotional support or psychiatric service animal. On page 27679 in section 382.117 of the rule text, we have added language indicating that documentation for an emotional support or psychiatric service animal from a medical doctor who is specifically treating the passenger's mental or emotional disability is acceptable. On the same page, in the same section, we have also added language further explaining when the factors that preclude the transport of a service animal in the aircraft cabin may apply.

For consistency of terminology and to avoid any misunderstanding concerning which operations of foreign carriers are and are not covered by this rule, the word ''operation'' is replaced with the word ''flight'' in section 382.7 of the rule text on page 27668, for consistent use throughout the section of the defined term ''flight''.

On page 27673 in section 382.51(c), we have clarified the applicability of the section's effective dates with respect to

foreign carriers. On pages 27669 and 27674, we have corrected minor typographical errors in the rule text.

On page 27675, in section 382.71(b), we have clarified the level of accessibility that applies when refurbishing aircraft cabins or any elements thereof.

On page 27677 in section 382.99(c) of the rule text, we have corrected a typographical error in the effective date applicable to foreign carriers so that it is consistent with the effective date of this provision as stated in the Section-by-Section Analysis on page 27654.

On page 27682 in section 382.143(a)(2) of the rule text, we revised awkward language addressing the time frame for the completion of training on the changes to Part 382 for existing employees without changing the substance of the provision, corrected an erroneous reference, and deleted superfluous text. On page 27683 in section 382.151(a) of the rule text, we corrected a typographical error.

On page 27687, we have added a section and a subject that had been omitted from the Cross-Reference Table.

We note that there are two additional corrections we have determined to be substantive in nature, which we intend to address through a notice of proposed rulemaking (NPRM). The first involves an omission of Subpart I from the subparts listed in section 382.7(c). Section 382.7(c) contains the service-related requirements with which a U.S. carrier must comply with respect to passengers traveling under its code on flights operated by a foreign carrier between two foreign points. Subpart I (14 CFR 382.121 to 14 CFR 382.133) is titled ''Stowage of Wheelchairs, Other Mobility Aids, and Other Assistive Devices.'' Among other things, Subpart I contains requirements related to the in-cabin use of portable oxygen concentrators and other respiratory assistive devices that will apply for the first time to both U.S. and foreign carriers. We will provide an opportunity for public comment on the inclusion of Subpart I, which contains these new requirements, in the list of subparts with which a U.S. carrier must comply with respect to passengers traveling under its code on flights operated by a foreign carrier between two foreign points.

The second matter that we intend to address through an NPRM involves inconsistencies in the amended rule with respect to requirements concerning in-cabin stowage of passenger wheelchairs. Because the Department's enforcement policy has in the past permitted the use of seat-strapping (i.e., strapping a wheelchair across a row of seats on aircraft that do not have a closet or similar compartment for stowing the device), the Department in the amended ACAA rule in effect ''grandfathered'' situations in which carriers, in reliance on the DOT Enforcement Office's statements, continued to utilize seat-strapping rather than having a closet or compartment space for a wheelchair. The rule does prohibit the use of seat-strapping beyond a certain date. More specifically, section 382.123(c) states that carriers must not use the seat-strapping method for wheelchair stowage in any aircraft ordered after May 13, 2009 or which are delivered after May 13, 2011. However, section 382.67(c) states that a foreign carrier must have a priority space in the cabin to stow a standard size wheelchair on aircraft ordered after May 13, 2009 or delivered after May 13, 2010. The Department intended to provide one year after the effective date of the rule (i.e., May 13, 2010) for obtaining new aircraft that would have priority space in the cabin to stow a standard size wheelchair and to allow carriers to use the seat-strapping method only on aircraft on which this method was previously allowed and on aircraft ordered on or before May 13, 2009 and delivered on or before May 13, 2010. The Department erroneously stated that carriers may not use the seat-strapping method in any aircraft delivered after May 13, 2011 instead of stating carriers may not use the seat-strapping method in any aircraft delivered after May 13, 2010. Nevertheless, we are not fixing this mistake through this correction notice since we believe correcting the error in the compliance date is substantive and would require notice and opportunity to comment. We also recognize that it often takes up to two years after the order date of an aircraft for that aircraft to be delivered to a carrier. Therefore, U.S. carriers relying on the language in 382.123(c) are likely not to have requested that the ordered aircraft, to be delivered between May 13, 2010 and May 13, 2011, contain priority space in the cabin to stow a standard size wheelchair.

To ensure that the changes to the preamble and final rule outlined in this correction notice are readily accessible and easily understandable to the public, it is the Department's intention to place in the docket and post on the Aviation Consumer Protection Web site a version of the complete final rule incorporating all the changes described herein within 2 to 4 weeks. This consolidated version will be available at *http://airconsumer.dot.gov/rules/rules.htm.*

III. Waiver of Proposed Rulemaking

Pursuant to section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)), the Department can waive prior notice and opportunity for public comment on this action if it finds that the notice and comment procedure is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice. The revisions contained in this document correct typographical errors, omissions, and unclear language in the final rule. Minor editorial corrections and clarifications consistent with the rule text have also been added to the preamble. These corrections are necessary to ensure the accuracy of the final rule. Since all are minor and non-substantive, public comments on these revisions are unnecessary. Therefore, we find good cause to waive the notice and comment procedure.

IV. Correction of Errors and Clarifications

In FR Doc. 08–1228, appearing on page 27614 in the **Federal Register** on Tuesday, May 13, 2008, the following corrections are made:

A. Corrections to the Preamble

1. On page 27614, in the first column, correct the footnote so it reads ''The dates and citations for these amendments are the following: April 3, 1990, 55 FR 12336; June 11, 1990, 55 FR 23539; November 1, 1996, 61 FR 56409; January 2, 1997, 62 FR 16; March 4, 1998, 63 FR 10528; March 11, 1998, 63 FR 11954; August 2, 1999, 64 FR 41781; January 5, 2000, 65 FR 352; May 3, 2001, 66 FR 22107; July 8, 2003, 68 FR 40488.''

2. On page 27616, in the third column, add the sentence, ''We strongly encourage carriers, even where a provision of Part 382 itself explicitly allows an exception in order to comply with a foreign law (i.e., section 382.87(a)), to consider filing a conflict of law waiver request as outlined in section 382.9(a) whenever a carrier believes itself bound by a legal mandate that requires something Part 382 prohibits or prohibits something Part 382 requires.'' before the sentence starting with the word ''If'' in the eighteenth line.

3. On page 27618, in the first column, in the 13th line, revise the phrase, ''regulatory provision that was shown'' to read, ''regulatory provision was shown''.

4. On the same page, in the same column, in the 15th line, revise the phrase, ''addition, The Department'' to read, ''addition, the Department''.

5. On page 27621, in the second column, in the first full paragraph, in the 10th and 11th lines, delete the phrase, ''or food service location''.

6. On the same page, in the same column, in the same paragraph, from the 22nd through the 30th lines, delete the last two sentences.

7. On page 27634, in the third column, in the 24th and 25th lines, revise the phrase, ''fear that Department'' to read, ''fear that the Department''.

8. On page 27640, in the first column, in the 34th line, add a comma and delete the period following the acronym ''NPRM''.

9. On page 27647, in the second column, after the second full paragraph, insert the following new paragraph: ''Finally, the Department recognizes that a U.S. carrier may wish to file a waiver request on behalf of a foreign carrier. This may occur, for example, in the case of U.S. carriers who must ensure compliance with the service-related provisions of this Part on code share flights between two foreign points operated by their foreign code share partners on behalf of passengers traveling under the U.S. carriers' codes. Where a U.S. carrier believes a foreign law conflicts with a service-related provision of this Part and bars compliance on a code-share flight operated by its foreign code share partner, the U.S. carrier may file a waiver request on behalf of its foreign code-share partner(s) subject to that law. The waiver request should include a proposal for an alternative means of compliance with the Part 382 provision or a justification of why it would be impossible to achieve the objective. If granted, the responsibility of the U.S. carrier with respect to code-share flights operated by its foreign partner(s) will be limited in accordance with the terms of the waiver.''

10. On page 27648, in the third column, in the 37th line, revise the phrase ''users and, people traveling'' to read, ''users and people traveling''.

11. On page 27650, in the third column, in the 16th line, correct the title of section 382.43 to read, ''*Must information and reservation services of carriers be accessible to individuals with hearing impairments?*''

12. On the same page, in the third column, starting in the 63rd line, delete the entire paragraph beginning at the bottom of the column and continuing on page 27651, in the first column, from the 1st through the 7th line.

13. On page 27652, in the first column, in the 1st to 3rd lines, correct the title of section 382.53 to read, ''*What information must carriers give individuals with a vision or hearing impairment at airports?*''

14. On page 27653, in the third column, in the 14th line, insert the phrase, ''to a level below that specified for new aircraft in this Part'' immediately before the period.

15. On page 27655, in the first column, in the 32nd to 34th lines, delete the sentence, ''Appendix A provides further guidance to carriers and passengers concerning service animals.'', and replace with ''Further guidance to carriers and passengers concerning service animals follows the Section-by-Section Analysis.''

16. On the same page, in the second column, in the 13th line, revise the phrase, ''mental health professional'' to read, ''licensed mental health professional (e.g., a medical doctor that is treating the passenger's mental or emotional disability or a licensed clinical social worker)''.

B. Corrections to the Service Animal Guidance

On page 27659, in the second column, in the 32nd line, revise the phrase ''licensed mental health professional'' to read ''licensed mental health professional, including a medical doctor that is treating the passenger's mental or emotional disability''.

C. Corrections to the Regulatory Text

PART 382—[CORRECTED]

■ 1. On page 27666, in the first column, in the Table of Contents to Part 382, , revise the title of § 382.43 to read, ''Must information and reservation services of carriers be accessible to individuals with hearing impairments?''

■ 2. On the same page, in the same column, revise the title of § 382.53 to read, ''What information must carriers give individuals with a vision or hearing impairment at airports?''

§ 382.7 [Corrected]

■ 3. On page 27668, in the first column, in § 382.7, in paragraph (c), the phrase ''with respect to operations'' is corrected to read, ''with respect to flights'' wherever it may appear.

■ 4. On the same page, in the same section, in the same paragraph, in the 9th line, the phrase ''with respect to operations'' is corrected to read, ''with respect to flights''.

■ 5. On the same page, in the second column, in the same section, in paragraph (d), in the 5th and 6th lines, the phrase ''the charter operation is not'' is corrected to read: ''the charter flight is not''.

§ 382.17 [Corrected]

■ 6. On page 27669, in the third column, in § 382.17, in the 4th line, change ''§ 382.27(b)(6)'' to ''§ 382.27(c)(6)''.

§ 382.27 [Corrected]

■ 7. On page 27671, in the first column, § 382.27, in paragraph (a), in the 1st and 2nd lines, remove the phrase ''paragraph (b)'' and add in its place the phrase ''paragraphs (b) and (c)''.

§ 382.43 [Corrected]

■ 8. On page 27672, in the third column, in the 36th line, correct the title of § 382.43 to read ''Must information and reservation services of carriers be accessible to individuals with hearing impairments?''

§ 382.51 [Corrected]

■ 9. On page 27673, in the third column, § 382.51, in paragraph (c), in the 3rd line, insert the phrase, '', except as otherwise indicated in paragraph (a)'' after the word ''2010''.

§ 382.55 [Corrected]

■ 10. On page 27674, in the first column, in § 382.55, in paragraph (c), in the 2nd line, change ''(c)'' to ''(d)''.

§ 382.71 [Corrected]

■ 11. On page 27675, in the third column, in § 382.71, in paragraph (b), in the fifth line, insert the phrase ''for new aircraft'' immediately following the word ''specified''.

§ 382.99 [Corrected]

■ 12. On page 27677, in the third column, in § 382.99, in paragraph (c), in the 6th and 7th lines, remove the phrase ''May 13, 2010'' and add in its place the phrase ''May 13, 2011''.

§ 382.117 [Corrected]

■ 13. On page 27679, in the first column, in § 382.117, in paragraph (e), in the 13th line, insert the phrase, ''including a medical doctor specifically treating the passenger's mental or emotional disability'' immediately before the parenthesis.

■ 14. On the same page, in the same column, in the same section, in paragraph (f), in the 5th and 6th lines, replace the phrase ''With respect to other unusual or exotic animals'' with the phrase ''With respect to all other animals, including unusual or exotic animals'' and in the 9th line, delete the abbreviation ''U.S.'' before the word ''carrier''.

■ 15. On the same page, in the second column, in § 382.117, in paragraph (f), in the 12th line, remove the word ''As'' and add in its place ''However, as''.

§ 382.143 [Corrected]

■ 16. On page 27682, in the third column, in § 382.143, in paragraph (a)(2), in the 3rd line, insert the phrase ''for each such employee no later than'' after the phrase ''must take place''.

■ 17. On the same page, in the same column, in the same section, in the same paragraph, in the 3rd and 4th lines, remove the phrase ''as part of''.

■ 18. On the same page, in the same column, in the same section, in the same paragraph, in the 5th line, insert the phrase ''taking place'' before the word ''after''.

■ 19. On the same page, in the same column, in the same section, in the same paragraph, in the 5th and 6th lines, delete the phrase ''for each such employee''.

■ 20. On the same page, in the same column, in the same section, in paragraph (b), in the 4th and 5th lines, remove the phrase, ''paragraph (a) of this section'' and replace it with ''§ 382.141(a)''.

■ 21. On the same page, in the same column, in the same section, in paragraph (b)(4), in the 3rd line remove the phrase ''a date''.

§ 382.151 [Corrected]

■ 22. On page 27683, in the first column, in § 382.151, in paragraph (a), in the 2nd line, remove the comma after ''service''.

D. Corrections to Appendix B: Cross-Reference Table

■ 23. On page 27687, in the second column, in the Section Numbers: Old and New Rules Table, in the 21st line, insert ''95, '' immediately before ''99''.

■ 24. On the same page, in the third column, in the same table, in the 22nd line, insert '', POCs and other respiratory assistive devices'' immediately before the period.

Dated March 9, 2009, at Washington, DC, under authority delegated in 49 CFR 1.57(j).

Rosalind A. Knapp,

Acting General Counsel.

[FR Doc. E9–5606 Filed 3–17–09; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 090223225–9275–01]

RIN 0694–AE57

Removal and Modification of Certain Entries From the Entity List: Persons Removed or Modified Based on ERC Annual Review

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) by removing two persons from the Entity List (Supplement No. 4 to Part 744). These persons are being removed from the Entity List because of determinations made by the United States Government during the annual review of the Entity List conducted by the End-User Review Committee (ERC).

This rule also makes a clarification for two persons that were listed on the Entity List prior to this rule being published to revise the addresses provided for these listed persons or add an address. These two listed persons were listed under addresses in more than one country. This rule removes one of the addresses for each of these entities.

The Entity List provides notice to the public that certain exports and reexports to parties identified on the Entity List require a license from the Bureau of Industry and Security (BIS) and that availability of License Exceptions in such transactions is limited.

DATES: *Effective Date:* This rule is effective March 18, 2009. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

ADDRESSES: You may submit comments, identified by RIN 0694–AE57, by any of the following methods:

E-mail: publiccomments@bis.doc.gov. Include ''RIN 0694–AE57'' in the subject line of the message.

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

Mail or Hand Delivery/Courier: Timothy Mooney, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, *Attn:* RIN 0694–AE57.

Send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by e-mail to *Jseehra@omb.eop.gov*, or by fax to (202) 395–7285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230. Comments on this collection of information should be submitted separately from comments on the final rule (i.e. RIN 0694–AE57)—all comments on the latter should be submitted by one of the three methods outlined above.

FOR FURTHER INFORMATION CONTACT: Karen Nies-Vogel, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–3811, Fax: (202) 482–3911, e-mail: *kniesv@bis.doc.gov*.

SUPPLEMENTARY INFORMATION:

Background

In Supplement No. 4 to part 744 (The Entity List) of the EAR, this rule removes two listed persons and modifies the entries for two listed persons on the basis of an annual review of the Entity List that was conducted by the End-User Review Committee (ERC). The modifications of the entries of two of the listed entries include the removal of their addresses under the United Arab Emirates (U.A.E.) and deletion of cross-references to the U.A.E. entries for these listed persons' entries under Germany and Hong Kong. The ERC approved these modifications pursuant to an annual review of the Entity List, which was conducted in accordance with the procedures outlined in Supplement No. 5 to part 744 (Procedures for End-User Review Committee Entity List Decisions).

ERC Entity List Decisions

The ERC, composed of representatives of the Departments of Commerce, State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from or changes to the Entity List. The ERC is chaired by the Department of Commerce and makes all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous vote. As noted in the preamble of the August 2008 final rule and in Supplement No. 5 to part 744, the activities of the ERC include conducting an annual review of the Entity List to make a determination

whether any removals or modifications should be made.

Pursuant to Supplement No. 5 to Part 744, the ERC determined that the following Entity List entries should be removed or revised, for the reasons provided below. This rule implements these decisions. In total, this rule removes four entries from the Entity List, including two entries for persons that had been listed on the Entity List as persons with addresses in multiple countries prior to publication of this rule, and modifies two entries, including removing cross-references for the two entities that had previously been listed with addresses in multiple countries.

Removals Based Upon ERC Annual Review

The two persons being removed from the Entity List with this rule are removed on the basis of the results of the annual review of the Entity List that was conducted by the ERC in accordance with the procedures outlined in Supplement No. 5 to Part 744. These two entities are both located in the United Arab Emirates:

United Arab Emirates

(1) Bazaar Trading Co., No. 212 Baniyas Tower, Dubai, U.A.E. 6708; and

(2) Elmstone Trading L.L.C., P.O. Box 24896, Sharjah, U.A.E.

As outlined in Supplement No. 5 to part 744, the ERC conducts a systematic review of the Entity List. Based upon the results of that annual review, the ERC made a determination that these two persons, described above, should be removed from the Entity List. The ERC decision to recommend removal of these persons also took into account recent cooperation between the U.S. Government and the U.A.E. Government regarding certain end-users of concern. This final rule implements the decision to remove these two U.A.E. persons from the Entity List.

Reminder To Consider Other End-Use/ End-User Controls

The removal of these two persons from the Entity List (from the U.A.E, as described above—based upon the ERC Annual Review) eliminates the existing license requirements in Supplement No. 4 to part 744 for exports and reexports to these persons. However, the removal of these persons from the Entity List does not relieve persons of other obligations under part 744 of the EAR or under other parts of the EAR. Neither the removal of a person from the Entity List nor the removal of Entity List-based license requirements relieve persons of their obligations under General Prohibition 5 in § 736.2(b)(5) of the EAR which provides that, ''you may not, without a license, knowingly export or reexport any item subject to the EAR to an end-user or end-use that is prohibited by part 744 of the EAR.'' Nor do such removals relieve persons of their obligation to apply for export or reexport licenses required by other provisions of the EAR. BIS strongly urges the use of Supplement No. 3 to part 732 of the EAR, ''BIS's 'Know Your Customer' Guidance and Red Flags,'' when persons are involved in transactions that are subject to the EAR.

Modifications Based Upon ERC Annual Review

This rule makes modifications to the entries for two listed persons on the Entity List. This rule removes additional addresses for these persons that had been listed on the Entity List as alternate addresses for these entities prior to publication of this final rule. Both of these alternate addresses that are removed were addresses in the U.A.E. In other words, prior to publication of this final rule, these listed persons were entities that had two entries each on the Entity List to account for addresses in two different countries. This rule removes the addresses in the U.A.E. for these two persons, but retains the listing for these listed persons on the Entity List under Germany and Hong Kong, respectively, as follows:

United Arab Emirates

(3) *Akbar Ashraf Vaghefi*, Shop No. 3–4, Sharafia Ahmed Ali Building, Al Nakheel, Deira, Dubai, U.A.E.; (See alternate address under Germany); and

Note that Akbar Ashraf Vaghefi is still listed on the Entity List as a German entry. The changes in this rule are limited to eliminating the alternate country address that had been provided for this listed person in the U.A.E.

(4) *Antony Emmanuel*, No. 3 & 4, Sharifia Ahmed Ali Bldg, P.O. Box 42340, Al Nakheel, Deira, Dubai, U.A.E. (See alternate address under Hong Kong).

Note that Antony Emmanuel is still listed on the Entity List as a Hong Kong entry. The changes in this rule are limited to eliminating the alternate country address that had been provided for this listed person in the U.A.E.

Based upon the results of the annual review, the ERC made a determination to remove these two listed persons' entries under the U.A.E, but to retain their listings on the Entity List under Germany and Hong Kong. The ERC decision to recommend removal of these persons also took into account recent cooperation between the U.S. Government and the U.A.E. Government regarding certain end-users of concern. This rule implements that decision by removing the U.A.E. entries for these two listed persons and by revising their respective entries under Germany and Hong Kong, to remove the last sentence of the ''Entity'' column entry that had referred persons to ''(See alternate address under U.A.E.)'' for these listed persons prior to publication of this rule.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of July 23, 2008, 73 FR 43603 (July 23, 2008), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act.

Rulemaking Requirements

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

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

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

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States. (*See* 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of

proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

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

PART 744—[AMENDED]

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

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008); Notice of November 10, 2008, 73 FR 67097 (November 12, 2008)

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

■ (a) By removing under United Arab Emirates, these four U.A.E. entities ''*Akbar Ashraf Vaghefi*, Shop No. 3–4 Sharafia Ahmed Ali Building, Al Nakheel, Deira, Dubai, U.A.E. (See alternate address under Germany)''; ''*Antony Emmanuel*, No. 3 & 4; Sharifia Ahmed Ali Bldg, P.O. Box 42340, Al Nakheel , Deira, Dubai, U.A.E. (See alternate address under Hong Kong)''; ''*Bazaar Trading Co.*, No. 212 Baniyas Tower, Dubai, U.A.E. 6708''; and ''*Elmstone Trading L.L.C.*, P.O. Box 24896, Sharjah, U.A.E.'';

■ (b) By revising under Germany, in alphabetical order, one German entity; and

■ (c) By revising under Hong Kong, in alphabetical order, one Hong Kong entity to read as follows:

SUPPLEMENT NO. 4 TO PART 7–4—ENTITY LIST

Country	Entity	License requirement	License review policy	Federal Register Citation
*	*	*	*	*
GERMANY	*Akbar Ashraf Vaghefi*, Koburgerstr 10, D–10825, Berlin, Germany.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	73 FR 54504, 9/22/08, 74 FR [INSERT FR PAGE NUMBER] 03/18/09.
*	*	*	*	*
HONG KONG	*Antony Emmanuel*, No: 3 & 4; 12F Commercial VIP Building, 112–116 Canton Rd., Tsim Sha Tsui, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	73 FR 54505, 9/22/08, 74 FR [INSERT FR PAGE NUMBER] 03/18/09.
*	*	*	*	*

Dated: March 13, 2009.

Matthew S. Borman,

Acting Assistant Secretary for Export Administration.

[FR Doc. E9–5860 Filed 3–17–09; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 360

[Docket No.: 0809261282–9117–02]

RIN 0625–AA82

Steel Import Monitoring and Analysis System

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce (the Department) publishes this action to make final a rule to extend the Steel Import Monitoring and Analysis (SIMA) system until March 21, 2013. The purpose of the SIMA system is to provide statistical data on steel imports entering the United States seven weeks earlier than it would otherwise be available to the public. Aggregate data collected from the licenses are made available to the public on a weekly basis following review by the Department.

DATES: This final rule is effective March 18, 2009.

FOR FURTHER INFORMATION CONTACT: For information about the SIMA system, please contact Kelly Parkhill (202) 482–3791 or Julie Al-Saadawi (202) 482–1930.

SUPPLEMENTARY INFORMATION:

Background

The SIMA system has been operating under its current authority since March 21, 2005. Prior to this date, authority for steel import licensing and monitoring was derived from the Proclamation 7529 of March 5, 2002, which placed temporary tariffs on many steel imports and provided the steel industry time to restructure. The monitoring system outlined in Proclamation 7529 required all importers of steel products to obtain a license from the Department prior to completing their Customs entry summary documentation. This provided a monitoring tool to ensure that the effectiveness of the safeguard was not undermined by large quantities of imports originating from countries that were excluded from the tariffs.

In Proclamation 7741 of December 4, 2003 (68 FR 68483), the President terminated the steel safeguard measures, but directed the Secretary of Commerce to continue the monitoring system until the earlier of March 21, 2005, or such time as the Secretary of Commerce established a replacement program. On December 9, 2003, the Department published a notice stating that the system would continue in effect as described in Proclamation 7741 until March 21, 2005 (68 FR 68594). On August 25, 2004, the Department published an advanced notice of proposed rulemaking soliciting comments from the public on whether to continue the monitoring system beyond March 21, 2005 (69 FR 52211). On March 11, 2005, the Department published an interim final rule responding to the comments received from the public and implementing a slightly expanded version of SIMA until March 21, 2009. That interim final was

followed by the publication of the final rule on December 5, 2005 (70 FR 72373).

On December 12, 2008, a proposed rule was published in the **Federal Register** (73 FR 75624) seeking an extension of the SIMA system through March 21, 2013 and asking for comments from the public. The Department received twelve comments all supportive of the extension.

The Department issues this final rule to extend the application of the SIMA system until March 21, 2013. No other changes are made to the regulations for the SIMA system. The purpose of the SIMA system is to provide steel producers, steel consumers, importers, and the general public with accurate and timely information on anticipated imports of certain steel products. Import licenses, obtained through the internet-based SIMA licensing system, are required on U.S. imports of basic steel mill products. Aggregate import data obtained from the licenses is updated weekly and posted on the SIMA Web site monitor. Details of the current system can be found on *http://ia.ita.doc.gov/steel/license.*

Response to Comments

Submissions received during the public comment period established in the proposed rule have been considered in preparing this final rule. Twelve submissions were received from individual steel producers, various industry and distributor trade groups, and the United Steelworkers. All of the comments received were supportive of the four-year extension and agreed that the system is a critical tool that helps the industry to closely monitor steel imports. The comments are summarized below. The twelve comments received are posted on the Federal rulemaking portal at *www.Regulations.gov* and they are also posted on the SIMA Web site at *http://ia.ita.doc.gov/steel/license.*

Comment 1: Commenters strongly support the extension of the SIMA system for an additional four years. They stated that given the volatility of world steel markets, the SIMA system gives the public access to the timeliest information possible regarding import patterns and changes. They also see it as an important and transparent tool to support rational decision-making by all interested parties—steel producers, steel users, importers and U.S. government officials.

Response: The Department agrees that the SIMA system provides the public valuable timely information on steel imports. It also agrees that the posting of aggregate import volume and pricing data drawn from the licenses on a public website provides all interested stakeholders with a better understanding of changing market conditions in a transparent fashion.

Comment 2: Commenters stated that there is no significant burden on the steel importing community to comply with the licensing requirements of the SIMA system and that this has been confirmed over the last four years in its current format, which remains unchanged by the proposed rule.

Response: The Department agrees with the comments that there is no significant burden on steel importers arising out of SIMA system licensing requirements. The web-based licensing system is automatic and free of charge. The Department estimates that it continues to take no longer than ten minutes to completely fill out the automated license form and for most applicants the time expended is much less.

Comment 3: Commenters suggest that the Department make the SIMA system permanent rather than extend it for another four years. They state that the system has proven its effectiveness as an important analytical tool for both steel producers and consumers.

Response: Broad authority to collect information on imports is granted to the Secretary of Commerce and delegated to the Director of the Bureau of the Census. When the original safeguard authority for the SIMA system granted by the President expired in March 2005, the system was continued pursuant to this Department of Commerce information collection authority (13 U.S.C. 301(a) and 302). For purposes of administering the SIMA system, this authority was temporarily transferred from the Director of the Census Bureau to the Under Secretary for International Trade for four years. One of the conditions of the temporary transfer of authority to the Under Secretary for International Trade was that any future periodic extensions of the SIMA system be notified to the Secretary and subject to review. Therefore, establishment of a permanent system is not possible under current authority.

Comment 4: Commenters suggested that the Department add metal forming products to the downstream monitor to the extent they can be defined by HTSUS codes.

Response: The Department intends to add these products to the downstream monitor using publicly available data.

For the reasons discussed above, the proposed rule (19 CFR part 360) is made final without changes.

Classification

Executive Order 12866

This rule has been determined to be significant for purposes of Executive Order 12866.

Executive Order 13132

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

Administrative Procedure Act

The Department finds good cause under 5 U.S.C. 553(b)(B) to waive the 30-day delay in effectiveness. The Department issues this final rule to extend the requirement for import licenses through the Internet-based SIMA licensing system on U.S. imports of basic steel mill products of the SIMA system until March 21, 2013. The purpose of the SIMA system is to provide steel producers, steel consumers, importers, and the general public with accurate and timely information on anticipated imports of certain steel products. This final rule would extend the requirement for such licenses from March 21, 2009 until March 21, 2013. It is necessary to waive the 30-day delay in effectiveness to ensure that the regulations requiring importers to obtain an import license from the SIMA system do not terminate, thereby ensuring the collection of timely and complete data on imports of covered items, and possibly preventing confusion or delay of imports at entry summary. If the Department were to allow for the 30-day delay in effectiveness, there would be a lapse in the requirement for an import license. As a result, importers may be confused about the need for a license and delay their filing of summary documents while trying to obtain one which could lead to possible fines and penalties. In addition, without current information from the licenses, the monitor would fall out of date and the public would be without the quality information they have come to depend upon. Therefore, to ensure the collection of timely and complete data, and to prevent any confusion and delay associated with a lapse in the license requirements for SIMA, the Department finds good cause to waive the 30-day delay in effectiveness, and to make these regulations effective upon publication.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule, if adopted, would not

have a significant economic impact on a substantial number of small entities as that term is defined in the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*. The factual basis is found in the proposed rule and is not repeated here. No comments were received on the certification or the economic impacts of this action. As a result, no final regulatory flexibility analysis was prepared.

Paperwork Reduction Act

This final rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). These requirements have been approved by OMB (OMB No. 0625–0245; Expiration Date: 09/30/2011). Public reporting for this collection of information is estimated to be less than ten minutes per response, including the time for reviewing instructions and completing and reviewing the collection of information. All responses to this collection of information are voluntary, and will be provided confidentially to the extent allowed by law.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the Paperwork Reduction Act unless that collection displays a currently valid OMB Control Number.

List of Subjects in 19 CFR Part 360

Administrative practice and procedure, Business and industry, Imports, Reporting and recordkeeping requirements, Steel.

Dated: March 13, 2009.

Michelle O'Neill,

Acting Under Secretary for International Trade.

■ For reasons discussed in the preamble, 19 CFR part 360 is amended to read as follows:

PART 360—STEEL IMPORT MONITORING AND ANALYSIS SYSTEM

■ 1. The authority citation for part 360 continues to read as follows:

Authority: 13 U.S.C. 301(a) and 302.

■ 2. Section 360.105 is revised to read as follows:

§ 360.105 Duration of the steel import licensing requirement.

The licensing program will be in effect through March 21, 2013, but may be extended upon review and notification in the **Federal Register** prior to this expiration date. Licenses will be required on all subject imports entered during this period, even if the entry summary documents are not filed until after the expiration of this program. The licenses will be valid for 10 business days after the expiration of this program to allow for the final filing of required Customs documentation.

[FR Doc. E9–6013 Filed 3–16–09; 4:15 pm]

BILLING CODE 3510–DS–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. FDA–2005–F–0505] (formerly Docket No. 2005F–0138)

Food Additives Permitted for Direct Addition to Food for Human Consumption; Silver Nitrate and Hydrogen Peroxide

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of an aqueous solution of silver nitrate and hydrogen peroxide as an antimicrobial agent in bottled water. This action is in response to a petition filed by Kareem I. Batarseh.

DATES: This final rule is effective March 18, 2009. Submit written or electronic objections and requests for a hearing by April 17, 2009. See section VIII of this document for information on the filing of objections. The Director of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of certain publications in 21 CFR 172.167 as of March 18, 2009.

ADDRESSES: You may submit written or electronic objections and requests for a hearing identified by Docket No. FDA–2005–F–0505 (formerly Docket No. 2005F–0138) by any of the following methods:

Electronic Submissions

Submit electronic objections in the following way:

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

Written Submissions

Submit written objections in the following ways:

• FAX: 301–827–6870.

• Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of objections, FDA is no longer accepting objections submitted to the agency by e-mail. FDA encourages you to continue to submit electronic objections by using the Federal eRulemaking Portal, as described in the *Electronic Submissions* portion of this paragraph.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All objections received will be posted without change to *http://www.regulations.gov*, including any personal information provided. For detailed instructions on submitting objections, see the ''Objections'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or objections received, go to *http://www.regulations.gov* and insert the docket number(s), found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Mical E. Honigfort, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–1278.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the **Federal Register** of April 18, 2005 (70 FR 20145), FDA announced that a food additive petition (FAP 5A4759) had been filed by Kareem I. Batarseh, P.O. Box 8, College Park, MD 20741–0008. The petition proposed to amend the food additive regulations in part 172, *Food Additives Permitted for Direct Addition to Food for Human Consumption* (21 CFR part 172), to provide for the safe use of an aqueous solution of silver nitrate and hydrogen peroxide as an antimicrobial agent in bottled drinking water at a level not to exceed 17 micrograms per kilogram (μg/kg) of silver and 23 milligrams per kilogram (mg/kg) of hydrogen peroxide in the treated bottled water.

II. Evaluation of Safety

Under the general safety standard in section 409 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348), a food additive cannot be approved for a particular use unless a fair evaluation of the data available to

FDA establishes that the additive is safe for that use. FDA's food additive regulations (21 CFR 170.3(i)) define safe as ''a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use.''

To establish with reasonable certainty that a food additive is not harmful under its intended conditions of use, FDA considers the estimated human dietary intake of the additive, the additive's toxicological data, and other relevant information (such as published literature) available to the agency. FDA compares an individual's estimated daily intake (EDI) of the additive to an acceptable intake level established by toxicological data. The EDI is determined by projections based on the amount of the additive proposed for use in particular foods and on data regarding the amount consumed from all sources of the additive. The agency commonly uses the EDI for the 90th percentile consumer of a food additive as a measure of high chronic dietary intake.

FDA estimates the EDI of silver from the petitioned use in bottled water to be 26 micrograms per person per day (µg/p/d) for the 90th percentile consumer aged 2 years or more (Ref. 1). Currently, silver is permitted as a component of an antimicrobial agent in water filters (the subject of effective food contact substance notification number 351 (Ref. 2)). The EDI from this filter use is 27 µg/p/d for the 90th percentile consumer. The petitioner has proposed as a condition of safe use that the subject additive not be used in bottled water that has been or is intended to be filtered with a silver-containing water filter. Consequently, bottled water containing the subject additive will generally be consumed as a substitute for, rather than in addition to, bottled water that has been filtered with a silver-containing filter. Thus, the use of the subject additive in bottled water will not increase consumer exposure to silver. Because there is no increase in the intake of silver beyond a level that has already been established as safe, FDA has no concerns regarding the petitioned use of silver as a component of this additive.

Regarding exposure to nitrate from use of the subject additive, FDA estimates that the maximum level of nitrate in bottled drinking water treated with the subject additive would result in a worst-case intake of 15 µg/p/d at the 90th percentile (Ref. 1), which is equivalent to 0.25 micrograms per kilogram body weight per day (µg/kg-bw/d) in a 60 kg adult. FDA has no safety concerns because the intake of nitrate in bottled drinking water treated with the subject additive is significantly lower than the chronic oral reference dose of 1,600 µg/kg-bw/d for nitrate that was established by the Environmental Protection Agency (Ref. 3).

FDA also has no safety concerns regarding the use of hydrogen peroxide as a component of this additive as it will rapidly break down to water and oxygen after addition to the bottled water. Consequently, the dietary exposure to hydrogen peroxide from the petitioned use of the subject additive is essentially zero (Ref. 1).

III. Conclusion

FDA reviewed data in the petition and other available relevant material to evaluate the safety of the use of a mixture of silver nitrate and hydrogen peroxide as an antimicrobial agent in bottled water. Based on this information, the agency concludes that the proposed use of the additive is safe and the additive will achieve its intended technical effect as an antimicrobial agent under the proposed conditions of use. Therefore, the regulations in part 172 should be amended as set forth in this document.

To ensure that food grade hydrogen peroxide is used in food, the additive must meet the specifications for hydrogen peroxide set forth in this regulation.

FDA notes that bottled water must meet the quality standards for bottled water in § 165.110(b)(2) through (b)(5) (21 CFR 165.110(b)(2) through (b)(5)), including the limits specified for total silver and nitrate, unless the water bears a label statement of substandard quality, as provided for under § 165.110(c) (21 CFR 165.110(c)). Furthermore, bottled water containing a substance at a level considered injurious to health under section 402(a)(1) of the act (21 U.S.C. 342(a)(1)) is deemed adulterated, regardless of whether or not the water bears a label statement of substandard quality, § 165.110(d) (21 CFR 165.110(d)).

IV. Public Disclosure

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition will be made available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

V. Environmental Impact

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 5A4759. No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

VI. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VII. Section 301(ll) of the Federal Food, Drug, and Cosmetic Act

FDA's review of this petition was limited to section 409 of the act. This final rule is not a statement regarding compliance with other sections of the act. For example, the Food and Drug Administration Amendments Act of 2007, which was signed into law on September 27, 2007, amended the act to, among other things, add section 301(ll) (21 U.S.C. 301(ll)). Section 301(ll) of the act prohibits the introduction or delivery for introduction into interstate commerce of any food that contains a drug approved under section 505 of the act (21 U.S.C. 355), a biological product licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), or a drug or biological product for which substantial clinical investigations have been instituted and their existence has been made public, unless one of the exceptions in 21 U.S.C. 301(ll)(1) to (ll)(4) applies. In our review of this petition, FDA did not consider whether section 301(ll) or any of its exemptions apply to food containing this additive. Accordingly, this final rule should not be construed to be a statement that a food containing this additive, if introduced or delivered for introduction into interstate commerce, would not violate section 301(ll). Furthermore, this language is included in all food additive final rules and therefore should not be construed to be a statement of the likelihood that section 301(ll) applies.

VIII. Objections

Any person who will be adversely affected by this regulation may file with the Division of Dockets Management (see **ADDRESSES**) written or electronic objections. Each objection shall be separately numbered, and each numbered objection shall specify with

particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IX. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum from D. Doell, Division of Petition Review, CFSAN, FDA to M. Honigfort, Division of Petition Review, CFSAN, FDA, June 14, 2005.

2. FDA, Inventory of Effective Food Contact Substance (FCS) Notifications, Food Contact Substance Notification Number 351 (*http://www.cfsan.fda.gov/~dms/opa-fcn.html*).

3. Environmental Protection Agency, Integrated Risk Information System: Nitrate (CASRN 14797–55–8) (*http://www.epa.gov/ncea/iris/subst/0076.htm*). (FDA has verified the Web site address, but FDA is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**).

List of Subjects in 21 CFR Part 172

Food additives, Incorporation by reference, Reporting and recordkeeping requirements.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 172 is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

■ 1. The authority citation for 21 CFR part 172 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 348, 371, 379e.

■ 2. Section 172.167 is added to subpart B to read as follows:

§ 172.167 Silver nitrate and hydrogen peroxide solution.

An aqueous solution containing a mixture of silver nitrate and hydrogen peroxide may be safely used in accordance with the following prescribed conditions:

(a) The additive is used as an antimicrobial agent in bottled water.

(b) Hydrogen peroxide meets the specifications of the ''Food Chemicals Codex,'' 6th ed. (2008), pp. 463 and 464, which is incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies from the United States Pharmacopeial Convention, 12601 Twinbrook Pkwy., Rockville, MD 20852 (Internet address *http://www.usp.org*). Copies may be examined at the Center for Food Safety and Applied Nutrition's Library, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2163, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(c) The amount of silver added will not exceed 17 micrograms per kilogram in the treated bottled water, and the amount of hydrogen peroxide will not exceed 23 milligrams per kilogram in the treated bottled water. Analyses for silver and hydrogen peroxide shall be conducted on samples of treated bottled water at the site of bottling, using samples of the water intended for treatment for the blank determination.

(d)(1) The amount of silver in the treated bottled water is determined using the method for silver designated in 21 CFR 165.110(b)(4)(iii)(G)(*2*)(*i*).

(2) The amount of hydrogen peroxide in the treated bottled water is determined using a Hydrogen Peroxide Test Kit from the HACH Co., or equivalent. The manual from the Hydrogen Peroxide Test Kit, Model HYP–1, Catalog Number 22917–00, 1991, is incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the test kit manual from the HACH Co., P.O. Box 389, Loveland CO, 80359 (1–800–227–4224), Model HYP–1, Catalog Number 22917–00. Copies may be examined at the Center for Food Safety and Applied Nutrition's Library, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2163, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(e) Substances generally recognized as safe in or on food may be used to stabilize the additive to ensure that the additive will perform its intended technical effect.

(f) The additive may not be added to bottled water that has been filtered or is intended to be filtered through a silver-containing water filter.

(g) Bottled water must meet the quality standards for bottled water in § 165.110(b)(2) through (b)(5) of this chapter, including the limits specified for total silver and nitrate, unless the water bears a label statement of substandard quality, as provided for under § 165.110(c) of this chapter.

Dated: March 12, 2009.

Leslye M. Fraser,

Director, Office of Regulations and Policy, Center for Food Safety and Applied Nutrition.

[FR Doc. E9–5852 Filed 3–17–09; 8:45 am]

BILLING CODE 4160–01–S

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

32 CFR Part 1702

Procedures Governing the Acceptance of Service of Process Upon the Office of the Director of National Intelligence and Its Employees in Their Official, Individual or Combined Official and Individual Capacities

AGENCY: Office of the Director of National Intelligence.

ACTION: Final rule.

SUMMARY: This final regulation governs the procedures the ODNI will follow for the acceptance of service of process upon the ODNI and its employees in their official, individual or combined official and individual capacities.

DATES: *Effective Date:* March 18, 2009.

FOR FURTHER INFORMATION CONTACT: Tricia Wellman, 703–275–2527.

SUPPLEMENTARY INFORMATION: The Office of the Director of National Intelligence (ODNI) was created by the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458, 118 Stat. 3638. The ODNI began operations on April 22, 2005, the day after the first Director of National Intelligence took office. This final regulation establishes the procedures for acceptance of service of process upon the ODNI and its employees.

The ODNI received no comments to its proposed regulation previously published on October 17, 2008 (73 FR 61771).

List of Subjects in 32 CFR Part 1702

Courts, Government employees.

■ Title 32 of the Code of Federal Regulations is amended by adding Part 1702 to read as follows:

PART 1702—PROCEDURES GOVERNING THE ACCEPTANCE OF SERVICE OF PROCESS

Sec.
1702.1 Scope and purpose.
1702.2 Definitions.
1702.3 Procedures governing acceptance of service of process.
1702.4 Notification to Office of *General Counsel.*
1702.5 Interpretation

Authority: The Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108–458, 118 Stat. 3638 (2004); National Security Act of 1947, as amended, 50 U.S.C. § 401 *et seq.*; Executive Order 12333, as amended.

§ 1702.1 Scope and purpose.

This part sets forth the ODNI policy concerning service of process upon the ODNI and ODNI employees in their official, individual or combined official and individual capacities. This part is intended to ensure the orderly execution of ODNI affairs and is not intended to impede the legal process.

§ 1702.2 Definitions.

For purposes of this part the following terms have the following meanings:

DNI. The Director of National Intelligence.

General Counsel. The ODNI's General Counsel, Acting General Counsel or Deputy General Counsel.

ODNI. The Office of the Director of National Intelligence and all of its components, including, but not limited to, the National Counterintelligence Executive, the National Counterterrorism Center, the National Counterproliferation Center, the Program Manager for the Information Sharing Environment, and all national intelligence centers and program managers the DNI may establish.

ODNI Employee. Any current or former employee, contractor, independent contractor, assignee or detailee to the ODNI.

OGC. The Office of the General Counsel of the ODNI.

Process. A summons, complaint, subpoena or other document properly issued by or under the authority of, a federal, state, local or other government entity of competent jurisdiction.

§ 1702.3 Procedures governing acceptance of service of process.

(a) Service of process upon the ODNI or an ODNI employee in the employee's official capacity.

(1) Personal service. Unless otherwise expressly authorized by the General Counsel, personal service of process upon the ODNI or an ODNI employee in the employee's official capacity, may be accepted only by an OGC attorney at ODNI Headquarters. The OGC attorney shall write or stamp ''Service Accepted In Official Capacity Only'' on the return of service form.

(2) Mail service. Where service of process by registered or certified mail is authorized by law, only an OGC attorney may accept such service of process upon the ODNI or an ODNI employee in the employee's official capacity, unless otherwise expressly authorized by the General Counsel. The OGC attorney shall write or stamp, ''Service Accepted In Official Capacity Only,'' on the waiver of personal service form. Service of process by mail must be addressed to the Office of the Director of National Intelligence, Office of General Counsel, Washington, DC 20511, and the envelope must be conspicuously marked ''Service of Process.''

(b) Service of process upon an ODNI employee solely in the employee's individual capacity.

(1) *Generally.* ODNI employees will not be required to accept service of process in their purely individual capacity on ODNI facilities or premises.

(2) *Personal Service.* Subject to the sole discretion of the General Counsel, process servers generally will not be allowed to enter ODNI facilities or premises for the purpose of serving process upon an ODNI employee solely in the employee's individual capacity. Except for the DNI, the Principal Deputy Director of National Intelligence, and the Director of the Intelligence Staff, the OGC is not authorized to accept service of process on behalf of any ODNI employee in the employee's individual capacity.

(3) *Mail Service.* Unless otherwise expressly authorized by the General Counsel, ODNI employees are not authorized to accept or forward mailed service of process directed to another ODNI employee in that employee's individual capacity. Any such process will be returned to the sender via appropriate postal channels.

(c) Service of Process Upon an ODNI employee in a combined official and individual capacity. Unless otherwise expressly authorized by the General Counsel, service of process, in person or by mail, upon an ODNI employee in the employee's combined official and individual capacity, may be accepted only for the ODNI employee in the employee's official capacity by an OGC attorney at ODNI Headquarters. The OGC attorney shall write or stamp, ''Service Accepted In Official Capacity Only,'' on the return of service form.

(d) Acceptance of service of process shall not constitute an admission or waiver with respect to jurisdiction, propriety of service, improper venue or any other defense in law or equity available under the laws or rules applicable to the service of process.

§ 1702.4 Notification to Office of General Counsel.

An ODNI employee who receives or has reason to expect to receive, service of process in an official, individual or combined individual and official capacity in a matter that may involve testimony or the furnishing of documents that could reasonably be expected to involve ODNI interests, shall promptly notify the OGC ((703) 275–2527) prior to responding to the service in any manner, and if possible, before accepting service.

§ 1702.5 Interpretation.

Any questions concerning interpretation of this regulation shall be referred to the Office of General Counsel for resolution.

Corin R. Stone,

Acting General Counsel, Office of the Director of National Intelligence.

[FR Doc. E9–5758 Filed 3–17–09; 8:45 am]

BILLING CODE 3910–A7–P–P

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

32 CFR Part 1703

Regulations Governing the Production of Office of the Director of National Intelligence Information or Material in Proceedings Before Federal, State, Local or Other Government Entity of Competent Jurisdiction

AGENCY: Office of the Director of National Intelligence.

ACTION: Final rule.

SUMMARY: This final regulation governs the procedures the ODNI will follow for the production of ODNI information or material in proceedings before federal, state, local or other government entity of competent jurisdiction.

DATES: *Effective Date:* March 18, 2009.

FOR FURTHER INFORMATION CONTACT: Tricia Wellman, (703) 275–2527.

SUPPLEMENTARY INFORMATION: The Office of the Director of National Intelligence (ODNI) was created by the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458, 118 Stat. 3638. The ODNI began operations on April 22, 2005, the day after the first Director of National Intelligence took office. This regulation outlines the procedures current and former ODNI employees must follow when they receive a demand for ODNI information or material in connection with proceedings before federal, state, local or other government entity of competent jurisdiction. These regulations are typically called Touhy regulations because of the Supreme Court's decision in *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951), in which the Court held that an agency employee could not be held in contempt for refusing to disclose agency records or information when following the instructions of his or her supervisor.

The ODNI received no comments to its proposed regulation previously published on October 17, 2008 (73 FR 61772).

List of Subjects in 32 CFR Part 1703

Courts, Government employees.

■ Title 32 of the Code of Federal Regulations is amended by adding Part 1703 to read as follows:

PART 1703—PRODUCTION OF ODNI INFORMATION OR MATERIAL IN PROCEEDINGS BEFORE FEDERAL, STATE, LOCAL OR OTHER GOVERNMENT ENTITY OF COMPETENT JURISDICTION

Sec.

1703.1 Scope and purpose.
1703.2 Definitions.
1703.3 General.
1703.4 Procedure for production.
1703.5 Interpretation.

Authority: The Intelligence Reform and Terrorism Prevention Act of 2004, Public Law No. 108–458, 118 Stat. 3638 (2004); National Security Act of 1947, as amended, 50 U.S.C. 401 *et seq.*; Executive Order 12333, as amended; and *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951).

§ 1703.1 Scope and purpose.

This part sets forth the policy and procedures with respect to the production or disclosure of material contained in the files of the ODNI, information relating to or based upon material contained in the files of the ODNI, and information acquired by any person while such person was an employee of the ODNI as part of the performance of that person's official duties or because of that person's association with the ODNI.

§ 1703.2 Definitions.

The following definitions apply to this part:

Defenses: Any and all legal defenses, privileges or objections available to the ODNI in response to a demand.

Demand:

(1) Any subpoena, order or other legal summons issued by a federal, state, local or other government entity of competent jurisdiction with the authority to require a response on a particular matter or a request for appearance of an individual where a demand could issue.

(2) Any request for production or disclosure which may result in the issuance of a subpoena, order, or other legal process to compel production or disclosure.

DNI: The Director of National Intelligence.

General Counsel: The ODNI's General Counsel, Acting General Counsel or Deputy General Counsel.

ODNI: The Office of the Director of National Intelligence and all of its components, including, but not limited to, the Office of the National Counterintelligence Executive, the National Counterterrorism Center, the National Counterproliferation Center, the Program Manager for the Information Sharing Environment, and all national intelligence centers and program managers the DNI may establish.

ODNI Employee: Any current or former employee, contractor, independent contractor, assignee or detailee to the ODNI.

ODNI Information or Material: Information or material that is contained in ODNI files, related to or based upon material contained in ODNI files or acquired by any ODNI employee as part of that employee's official duties or because of that employee's association with the ODNI.

OGC: The Office of the General Counsel of the ODNI.

OGC Attorney: Any attorney in the OGC.

Proceeding: Any matter before a court of law, administrative law judge, administrative tribunal or commission or other body that conducts legal or administrative proceedings, and includes all phases of the proceeding.

Production or Produce: The disclosure of ODNI information or material in response to a demand.

§ 1703.3 General.

(a) No ODNI employee shall respond to a demand for ODNI information or material without prior authorization as set forth in this part.

(b) This part is intended only to provide procedures for responding to demands for production of documents or information, and does not create any right or benefit, substantive or procedural, enforceable by any party against the United States.

§ 1703.4 Procedure for production.

(a) Whenever a demand is made for ODNI information or material, the employee who received the demand shall immediately notify OGC ((703) 275–2527). The OGC and the ODNI employee shall then follow the procedures set forth in this section.

(b) The OGC may assert any and all defenses before any search for potentially responsive ODNI information or material begins. Further, in its sole discretion the ODNI may decline to begin a search for potentially responsive ODNI information or material until a final and non-appealable disposition of any or all of the asserted defenses is made by the federal, state, local or government entity of competent jurisdiction. When the OGC determines that it is appropriate to search for potentially responsive ODNI information and material, the OGC will forward the demand to the appropriate ODNI offices or entities with responsibility for the ODNI information or material sought in the demand. Those ODNI offices or entities shall then search for and provide to the OGC all potentially responsive ODNI information and material. The OGC may then assert any and all defenses to the production of what it determines is responsive ODNI information or material.

(c) In reaching a decision on whether to produce responsive ODNI information or material, or to object to the demand, the OGC shall consider whether:

(1) Any relevant privileges are applicable;

(2) The applicable rules of discovery or procedure require production;

(3) Production would violate a statute, regulation, executive order or other provision of law;

(4) Production would violate a non-disclosure agreement;

(5) Production would be inconsistent with the DNI's responsibility to protect intelligence sources and methods, or reveal classified information or state secrets;

(6) Production would violate a specific ODNI policy issuance or instruction; and

(7) Production would unduly interfere with the orderly conduct of ODNI functions.

(d) If oral or written testimony is sought by a demand in a case or matter in which the ODNI is not a party, a reasonably detailed description of the testimony sought in the form of an affidavit, or a written statement if that is not feasible, by the party seeking the testimony or its attorney must be furnished to the OGC.

(e) The OGC shall notify the appropriate employees of all decisions regarding responses to demands and provide advice and counsel for the implementation of the decisions.

(f) If response to a demand is required before a decision is made whether to provide responsive ODNI information or material, an OGC attorney will request that a Department of Justice attorney appear with the ODNI employee upon whom that demand has been made before the court or other competent authority and provide it with a copy of this regulation and inform the court or other authority as to the status of the demand. The court will be requested to stay the demand pending resolution by the ODNI. If the request for a stay is denied or there is a ruling that the demand must be complied with irrespective of instructions rendered in accordance with this Part, the employee upon whom the demand was made shall, if directed to do so by the General Counsel or its designee, respectfully decline to comply with the demand under the authority of *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951), and this regulation.

(g) ODNI officials may delegate in writing any authority given to them in this Part to subordinate officials.

(h) Any individual or entity not an ODNI employee as defined in this Part who receives a demand for the production or disclosure of ODNI information or material acquired because of that person's or entity's association with the ODNI should notify the OGC ((703) 275–2527) for guidance and assistance. In such cases the provisions of this regulation shall be applicable.

§ 1703.5 Interpretation.

Any questions concerning interpretation of this Regulation shall be referred to the OGC for resolution.

Corin R. Stone,

Acting General Counsel, Office of the Director of National Intelligence.

[FR Doc. E9–5756 Filed 3–17–09; 8:45 am]

BILLING CODE 3910–A7–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Naval Support Activity, Panama City, FL

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Correcting amendments.

SUMMARY: The U.S. Army Corps of Engineers (Corps) published a document in the **Federal Register** on September 12, 2008 (73 FR 52926), revising the restricted areas at Naval Support Activity (NSA), Panama City (PC), Florida. The latitude of the shared point for the southeast point of restricted area BA–1 (Sec. 334.761(a)(2)) and the southwest point of restricted area BA–2 (Sec. 334.761(a)(3)) should have been provided as 30°10′32″ N. This document corrects the final regulation by revising these actions.

DATES: *Effective date:* March 18, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202–761–4922 or Mr. Jon Griffin, U.S. Army Corps of Engineers, Jacksonville District, Regulatory Division at 904–232–1680.

SUPPLEMENTARY INFORMATION: On September 12, 2008, (73 FR 52926) the Corps published a final rule establishing ten restricted areas at Naval Support Activity (NSA), Panama City (PC), Florida. In that final rule, the shared point at the southeast point of Area BA–1 (§ 334.761(a)(2)) and the southwest point of Area BA–2 (§ 334.761(a)(3)) overlap a portion of Area BA–3 (§ 334.761(a)(4)) by one second. To correct this error, the southeast point of Area BA–1 and the southwest point of Area BA–2 are changed to 30°10′32″ N, with no change in the longitudinal value.

List of Subjects in 33 CFR Part 334

Danger zones, Navigation (water), Restricted areas, Waterways.

■ Accordingly, 33 CFR part 334 is amended by making the following correcting amendments:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. In § 334.761, revise paragraphs (a)(2) and (a)(3) to read as follows:

§ 334.761 Naval Support Activity Panama City; St. Andrews Bay; restricted areas.

* * * * *

(a) * * *

(2) *Area BA–1.* The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): Northwest point—30°11′14″ N, 085°44′59″ W; Northeast point—30°11′13″ N, 085°44′32″ W; Southeast point—30°10′32″ N, 085°44′32″ W; Southwest point—30°10′32″ N, 085°44′59″ W, then northerly to point of origin.

(3) *Area BA–2.* The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): Northwest point—30°11′13″ N, 085°44′32″ W; Northeast point—30°11′07″ N, 085°44′01″ W; Southeast point—30°10′32″ N, 085°44′00″ W; Southwest point—30°10′32″ N, 085°44′32″ W, then northerly to point of origin.

* * * * *

Dated: *March 9, 2009.*

Michael Ensch,

Chief, Operations, Directorate of Civil Works.

[FR Doc. E9–5748 Filed 3–17–09; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AN03

The Dr. James Allen Veteran Vision Equity Act of 2007

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations regarding special monthly compensation and compensation for paired organs. These amendments are necessary because the statutes on which the regulations are based have been amended. The intended effect of these amendments is to incorporate relevant statutory provisions from the Dr. James Allen Veteran Vision Equity Act of 2007.

DATES: *Effective Date:* These amendments are effective March 18, 2009.

Applicability Date: This final rule will apply to applications for benefits filed with VA on or after December 26, 2007. This final rule will also apply to applications for benefits filed before December 26, 2007, but pending before VA as of December 26, 2007.

FOR FURTHER INFORMATION CONTACT: Gerald Johnson, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 1800 G Street, NW., Washington, DC 20420, (202) 461–9727.

SUPPLEMENTARY INFORMATION: Section 1114 of title 38, United States Code, prescribes the rates of compensation payable for service-connected disability, depending on the percentage disabilty rating assigned by VA or on the presence of various combinations of service-connected disabilities. One of the criteria for the rate of special monthly compensation prescribed by section 1114(o) was ''service-connected total blindness with 5/200 visual acuity or less.'' Section 101 of the Dr. James Allen Veteran Vision Equity Act of 2007, Public Law 110–157 (the Act), changed that threshold visual acuity of ''5/200'' to ''20/200.''

Section 1160(a) of title 38, United States Code, requires VA to pay compensation for certain combinations of service-connected and non-service-connected disabilities of paired organs or extremities as if both disabilities were service connected, provided the non-service-connected disability is not the result of the veteran's own willful misconduct. One of those combinations of disability was service-connected ''blindness'' in one eye and non-service-connected ''blindness'' in the other eye. Section 102 of the Act changed the word ''blindness'' to ''impairment of vision'' and added the criteria that the visual impairment in each eye be rated at visual acuity of 20/200 or less or that the peripheral field of vision for each eye be 20 degrees or less.

Pursuant to the Act, this document amends 38 CFR 3.350, Special monthly compensation ratings, and 38 CFR 3.383, Special consideration for paired organs and extremities, to reflect the statutory changes. We are amending § 3.350(e)(1)(iii) by replacing ''5/200'' with ''20/200.'' We are amending § 3.383(a)(1) by replacing the word ''blindness'' in both places it appears with the term ''impairment of vision'' and adding the two additional statutory criteria.

Administrative Procedure Act

Because these substantive amendments merely reflect statutory changes, this rulemaking is exempt from the notice-and-comment and delayed-effective-date requirements of 5 U.S.C. 553. Use of those procedures would be unnecessary and contrary to the public interest.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The initial and final regulatory flexibility analysis requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 601–612, are not applicable to this rule because a notice of proposed rule-making is not required for this rule. Even so, the Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. This final rule would not affect any small entities. Only individual VA beneficiaries would be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

VA has examined the economic, interagency, budgetary, legal, and policy implications of this final rule and has concluded that it is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates

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

Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program number and title for this rule is 64.109, Veterans Compensation for Service-Connected Disability.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Approved: February 24, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

■ For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR Part 3 as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.350 [Amended]

■ 2. Amend § 3.350(e)(1)(iii) by removing ''5/200'' and adding, in its place, ''20/200''.

■ 3. Revise § 3.383(a)(1) and the sectional authority citation to read as follows:

§ 3.383 Special consideration for paired organs and extremities.

(a) * * *

(1) Impairment of vision in one eye as a result of service-connected disability and impairment of vision in the other eye as a result of non-service-connected disability and

(i) The impairment of vision in each eye is rated at a visual acuity of 20/200 or less; or

(ii) The peripheral field of vision for each eye is 20 degrees or less.

* * * * *

Authority: 38 U.S.C. 501(a), 1160.

[FR Doc. E9–5862 Filed 3–17–09; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL–200822; FRL–8759–9]

Approval and Promulgation of Air Quality Implementation Plans; Alabama; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is publishing this action to provide the public with notice of the update to the Alabama State Implementation Plan (SIP) compilation. In particular, materials submitted by Alabama that are incorporated by reference (IBR) into the Alabama SIP are being updated to reflect EPA-approved revisions to Alabama's SIP that have occurred since the last update. In this action EPA is also notifying the public of the correction of certain typographical errors.

DATES: This action is effective March 18, 2009.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303; the Air and Radiation Docket and Information Center, EPA Headquarters Library, Infoterra Room (Room Number 3334), EPA West Building, 1301 Constitution Ave., NW., Washington, DC 20460, and the National Archives and Records Administration. If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number: (202) 566–1742. For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

FOR FURTHER INFORMATION CONTACT: Ms. Stacy Harder at the above Region 4 address or at (404) 562–9042.

SUPPLEMENTARY INFORMATION: Each state has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

Each state must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them and then submit the SIP to EPA. Once these control measures and strategies are approved by EPA, after notice and comment, they are incorporated into the federally approved SIP and are identified in part 52 ''Approval and Promulgation of Implementation Plans,'' Title 40 of the Code of Federal Regulations (40 CFR part 52). The full text of the state regulation approved by EPA is not reproduced in its entirety in 40 CFR part 52, but is ''incorporated by reference.'' This means that EPA has approved a given state regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP. The information provided allows EPA and the public to monitor the extent to which a state implements a SIP to attain and maintain the NAAQS and to take enforcement action if necessary.

The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference, into the CFR, materials submitted by states in their EPA-approved SIP revisions. These changes revised the format for the identification of the SIP in 40 CFR part 52, stream-lined the mechanisms for announcing EPA approval of revisions to a SIP, and stream-lined the mechanisms for EPA's updating of the IBR information contained for each SIP in 40 CFR part 52. The revised procedures also called for EPA to maintain ''SIP Compilations'' that contain the federally approved regulations and source specific permits submitted by each state agency. These SIP Compilations are contained in 3-ring binders and are updated primarily on an annual basis. Under the revised procedures, EPA is to periodically publish an informational document in the rules section of the **Federal Register** when updates are made to a SIP Compilation for a particular state. EPA's 1997 revised procedures were formally applied to Alabama on December 22, 1998 (63 FR 70669).

This action represents EPA's publication of the Alabama SIP Compilation update, appearing in 40 CFR part 52. In addition, notice is provided of the following typographical corrections to Table (c) of paragraph 52.50, as described below:

1. Correcting typographical errors listed in Table 1 of paragraph 52.50(c), as described below:

A. Section 335–3–14-.03 State Effective Date is revised to read ''08/10/00.''

B. Section 335–3–14-.03 EPA Approval Date is revised to read ''12/8/00.''

C. Section 335–3–14-.05 EPA Approval Date is revised to read ''12/8/00.''

D. Section 335–3–15-.02 EPA Approval Date is revised to read ''12/8/00.''

2. Revising the date format listed in paragraphs 52.50(c), and (e) in the ''state effective date,'' and ''EPA approval date,'' columns for consistency. Dates are numerical month/day/year without additional zeros.

EPA has determined that today's action falls under the ''good cause'' exemption in the section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make an action effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's administrative action simply codifies provisions which are already in effect as a matter of law in Federal and approved state programs and corrects typographical errors appearing the **Federal Register**. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment for this administrative action is ''unnecessary'' and ''contrary to the public interest'' since the codification (and typographical corrections) only reflects existing law. Immediate notice

of this action in the **Federal Register** benefits the public by providing the public notice of the updated Alabama SIP Compilation and notice of typographical corrections to the Alabama ''Identification of Plan'' portion of the **Federal Register**.

Statutory and Executive Order Reviews:

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this administrative action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. This action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because the Agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the APA or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This administrative action also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This administrative action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This administrative action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The administrative action also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). This administrative action does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these Statutes and Executive Orders for the underlying rules are discussed in previous actions taken on the State's rules.

B. Submission to Congress and the Comptroller General

The Congressional Review Act (CRA) (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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. Today's administrative action simply codifies (and corrects) provisions which are already in effect as a matter of law in Federal and approved state programs. 5 U.S.C. 808(2). These announced actions were effective when EPA approved them through previous rulemaking actions. 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 this action in the **Federal Register**. This update to Alabama's SIP Compilation and correction of typographical errors is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. This action is simply an announcement of prior rulemakings that have previously undergone notice and comment rulemaking. Prior EPA rulemaking actions for each individual component of the Alabama SIP compilation previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 27, 2009.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ 40 CFR part 52, is amended as follows:

PART 52—[AMENDED]

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

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

Subpart B—Alabama

■ 2. Section 52.50 paragraphs (b), (c) and (e) are revised to read as follows:

§ 52.50 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to August 1, 2008, for Alabama was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after August 1, 2008, for Alabama will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 4 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State Implementation Plan as of the dates referenced in paragraph (b)(1).

(3) Copies of the materials incorporated by reference may be inspected at the Region 4 EPA Office at 61 Forsyth Street, SW., Atlanta, GA 30303 the Air and Radiation Docket and Information Center, EPA Headquarters Library, Infoterra Room (Room Number 3334), EPA West Building, 1301 Constitution Ave., NW., Washington, DC 20460, and the National Archives and Records Administration. If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number: (202) 566–1742. For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://*

www.archives.gov/federal-register/cfr/ibr-locations.html.

(c) EPA Approved Alabama Regulations.

EPA APPROVED ALABAMA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
Chapter No. 335–3–1 General Provision				
Section 335–3–1–.01	Purpose	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–1–.02	Definitions	12/12/05	10/11/06; 71 FR 59676.	
Section 335–3–1–.03	Ambient Air Quality Standards	10/13/98	3/01/99; 64 FR 9918.	
Section 335–3–1–.04	Monitoring, Records, and Reporting	10/15/96	6/06/97; 62 FR 30991.	
Section 335–3–1–.05	Sampling and Test Methods	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–1–.06	Compliance Schedule	10/15/96	6/06/97; 62 FR 30991.	
Section 335–3–1–.07	Maintenance and Malfunctioning of Equipment; Reporting.	10/15/89	3/19/90; 55 FR 10062.	
Section 335–3–1–.08	Prohibition of Air Pollution	8/10/00	12/8/00; 65 FR 76940.	
Section 335–3–1–.09	Variances	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–1–.10	Circumvention	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–1–.11	Severability	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–1–.12	Bubble Provision	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–1–.13	Credible Evidence	4/13/99	11/3/99; 64 FR 59633.	
Section 335–3–1–.14	Emissions Reporting Requirements Relating to Budgets for NO_X Emissions.	4/6/01	7/16/01; 66 FR 36921.	
Section 335–3–1–.15	Emissions Inventory Reporting Requirements	4/3/03	4/24/03; 68 FR 20077.	
Chapter No. 335–3–2 Air Pollution Emergency				
Section 335–3–2–.01	Air Pollution Emergency	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–2–.02	Episode Criteria	8/10/00	12/8/00; 65 FR 76940.	
Section 335–3–2–.03	Special Episode Criteria	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–2–.04	Emission Reduction Plans	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–2–.05	Two Contaminant Episode	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–2–.06	General Episodes	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–2–.07	Local Episodes	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–2–.08	Other Sources	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–2–.09	Other Authority Not Affected	6/22/89	3/19/90; 55 FR 10062.	
Chapter No. 335–3–3 Control of Open Burning and Incineration				
Section 335–3–3–.01	Open Burning	4/4/06	6/22/06; 71 FR 35801.	
Section 335–3–3–.02	Incinerators	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–3–.03	Incineration of Wood, Peanut, and Cotton Ginning Waste.	8/10/00	12/8/00; 65 FR 76940.	
Chapter No. 335–3–4 Control of Particulate Emissions				
Section 335–3–4–.01	Visible Emissions	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–4–.02	Fugitive Dust and Fugitive Emissions	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–4–.03	Fuel Burning Equipment	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–4–.04	Process Industries—General	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–4–.05	Small Foundry Cupola	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–4–.06	Cotton Gins	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–4–.07	Kraft Pulp Mills	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–4–.08	Wood Waste Boilers	8/10/00	12/8/00; 65 FR 76940.	
Section 335–3–4–.09	Coke Ovens	8/10/00	12/8/00; 65 FR 76940.	
Section 335–3–4–.10	Primary Aluminum Plants	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–4–.11	Cement Plants	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–4–.12	Xylene Oxidation Process	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–4–.13	Sintering Plants	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–4–.14	Grain Elevators	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–4–.15	Secondary Lead Smelters	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–4–.16	Reserved.			
Section 335–3–4–.17	Steel Mills Located in Etowah County	10/15/96	6/6/97; 62 FR 30991.	
Chapter No. 335–3–5 Control of Sulfur Compound Emissions				
Section 335–3–5–.01	Fuel Combustions	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–5–.02	Sulfuric Acid Plants	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–5–.03	Petroleum Production	8/10/00	12/8/00; 65 FR 76940.	
Section 335–3–5–.04	Kraft Pulp Mills	8/10/00	12/8/00; 65 FR 76940.	
Section 335–3–5–.05	Process Industries—General	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–5–.06	State Clean Air Interstate Rule (CAIR) SO_2 Trading Program General Provisions.	4/3/07	10/1/07; 72 FR 55659.	

EPA APPROVED ALABAMA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
Section 335–3–5–.07	CAIR Designated Representative for CAIR SO_2 Sources.	4/3/07	10/1/07; 72 FR 55659.	
Section 335–3–5–.08	Permits	04/3/07	10/1/07; 72 FR 55659.	
Section 335–3–5–.11	CAIR SO_2 Allowance Tracking System	04/3/07	10/1/07; 72 FR 55659.	
Section 335–3–5–.12	CAIR SO_2 Allowance Transfers	4/3/07	10/1/07; 72 FR 55659.	
Section 335–3–5–.13	Monitoring and Reporting	4/3/07	10/1/07; 72 FR 55659.	
Section 335–3–5–.14	CAIR SO_2 Opt-in Units	4/3/07	10/1/07; 72 FR 55659.	
Chapter No. 335–3–6 Control of Organic Emissions				
Section 335–3–6–.01	Applicability	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.02	VOC Water Separation	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–6–.03	Loading and Storage of VOC	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–6–.04	Fixed-Roof Petroleum Liquid Storage Vessels	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.05	Bulk Gasoline Plants	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.06	Bulk Gasoline Terminals	8/10/00	12/8/00; 65 FR 76940.	
Section 335–3–6–.07	Gasoline Dispensing Facilities—Stage I	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.08	Petroleum Refinery Sources	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–6–.09	Pumps and Compressors	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–6–.10	Ethylene Producing Plants	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–6–.11	Surface Coating	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.12	Solvent Metal Cleaning	10/15/96	06/6/97; 62 FR 30991.	
Section 335–3–6–.13	Cutback Asphalt	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.14	Petition for Alternative Controls	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–6–.15	Compliance Schedules	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.16	Test Methods and Procedures	8/10/00	12/8/00; 65 FR 76940.	
Section 335–3–6–.17	Manufacture of Pneumatic Tires	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.18	Manufacture of Synthesized Pharmaceutical Products.	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.19	Reserved.			
Section 335–3–6–.20	Leaks from Gasoline Tank Trucks and Vapor Collection Systems.	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.21	Leaks from Petroleum Refinery Equipment	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.22	Graphic Arts	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.23	Petroleum Liquid Storage in External Floating Roof Tanks.	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.24	Applicability	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.25	VOC Water Separation	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–6–.26	Loading and Storage of VOC	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–6–.27	Fixed-Roof Petroleum Liquid Storage Vessels	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.28	Bulk Gasoline Plants	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.29	Gasoline Terminals	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.30	Gasoline Dispensing Facilities Stage 1	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.31	Petroleum Refinery Sources	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–6–.32	Surface Coating	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.33	Solvent Metal Cleaning	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–6–.34	Cutback Asphalt	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.35	Petition for Alternative Controls	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–6–.36	Compliances Schedules	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.37	Test Methods and Procedures	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.38	Manufacture of Pneumatic Tires	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–6–.39	Manufacture of Synthesized Pharmaceutical Products.	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.40	Reserved.			
Section 335–3–6–.41	Leaks from Gasoline Tank Trucks and Vapor Collection Systems.	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.42	Leaks from Petroleum Refinery Equipment	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.43	Graphic Arts	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–6–.44	Petroleum Liquid Storage in External Floating Roof Tanks.	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.45	Large Petroleum Dry Cleaners	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.46	Aerospace Assembly and Component and Component Coatings Operation.	6/22/89	6/6/97; 62 FR 30991.	
Section 335–3–6–.47	Leaks from Coke by-Product Recovery Plant Equipment.	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.48	Emissions from Coke by-Product Recovery Plant Coke Oven Gas Bleeder.	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–6–.49	Manufacture of Laminated Countertops	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–6–.50	Paint Manufacture	10/15/96	6/6/97; 62 FR 30991.	

EPA APPROVED ALABAMA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
Section 335–3–6–.53	List of EPA Approved and Equivalent Test Methods and Procedures for the Purpose of Determining VOC Emissions.	6/26/91	9/27/91; 58 FR 50262.	
Chapter No. 335–3–7 Carbon Monoxide Emissions				
Section 335–3–7–.01	Metals Productions	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–7–.02	Petroleum Processes	6/22/89	3/19/90; 55 FR 10062.	
Chapter No. 335–3–8 Nitrogen Oxides Emissions				
Section 335–3–8–.01	Standards for Portland Cement Kilns	4/6/01	7/17/01; 66 FR 36921.	
Section 335–3–8–.02	Nitric Acid Manufacturing	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–8–.03	NO_X Emissions from Electric Utility Generating Units.	10/24/00	11/7/01; 66 FR 56223.	
Section 335–3–8–.04	Standards for Stationary Reciprocating Internal Combustion Engines (Reserved).	3/22/05	12/28/05; 70 FR 76694.	
Section 335–3–8–.05	NO_X Budget Trading Program	4/3/07	10/1/07; 72 FR 55659.	
Section 335–3–8–.06	Authorized Account Representative for NO_X Budget Sources.	4/6/01	7/16/01; 66 FR 36921.	
Section 335–3–8–.07	Permits	4/6/01	7/16/01; 66 FR 36921.	
Section 335–3–8–.08	Compliance Certification	4/6/01	7/16/01; 66 FR 36921.	
Section 335–3–8–.09	NO_X Allowance Allocations	4/6/01	7/16/01; 66 FR 36921.	
Section 335–3–8–.10	NO_X Allowance Tracking System	4/3/07	10/1/07; 72 FR 55659.	
Section 335–3–8–.11	NO_X Allowance Transfers	4/6/01	7/16/01; 66 FR 36921.	
Section 335–3–8–.12	Monitoring and Reporting	4/6/01	7/16/01; 66 FR 36921.	
Section 335–3–8–.13	Individual Unit Opt-ins	4/6/01	7/16/01; 66 FR 36921.	
Section 335–3–8–.14	New Combustion Sources	4/6/01	7/16/01; 66 FR 36921.	
Section 335–3–8–.16	CAIR NO_X Annual Budget Trading Program	4/3/07	10/1/07; 72 FR 55659.	
Section 335–3–8–.17	CAIR Designated Representative for CAIR NO_X Sources.	4/3/07	10/1/07; 72 FR 55659.	
Section 335–3–8–.18	CAIR Permits	4/3/07	10/1/07; 72 FR 55659.	
Section 335–3–8–.20	CAIR NO_X Allowance Allocations	4/3/07	10/1/07; 72 FR 55659.	
Section 335–3–8–.21	CAIR NO_X Allowance Tracking System	4/3/07	10/1/07; 72 FR 55659.	
Section 335–3–8–.23	CAIR Monitoring and Reporting	4/3/07	10/1/07; 72 FR 55659.	
Section 335–3–8–.24	CAIR NO_X Opt-in Units	04/3/07	10/1/07; 72 FR 55659.	
Section 335–3–8–.25	CAIR NO_X Ozone Season Trading Program	4/3/07	10/1/07; 72 FR 55659.	
Section 335–3–8–.26	CAIR Designated Representative for CAIR NO_X Ozone Season Sources.	4/3/07	10/1/07; 72 FR 55659.	
Section 335–3–8–.27	CAIR NO_X Ozone Season Permits	4/3/07	10/1/07; 72 FR 55659.	
Section 335–3–8–.29	CAIR NO_X Ozone Season Allowance Allocations	4/3/07	10/1/07; 72 FR 55659.	
Section 335–3–8–.30	CAIR NO_X Ozone Season Allowance Tracking System.	4/3/07	10/1/07; 72 FR 55659.	
Section 335–3–8–.32	CAIR NO_X Ozone Season Monitoring and Reporting.	4/3/07	10/1/07; 72 FR 55659.	
Section 335–3–8–.33	CAIR NO_X Ozone Season Opt-in Units	4/3/07	10/1/07; 72 FR 55659.	
Chapter No. 335–3–9 Control of Emissions from Motor Vehicles				
Section 335–3–9–.01	Visible Emission Restriction for Motor Vehicles ...	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–9–.02	Ignition System and Engine Speed	8/10/00	12/8/00; 65 FR 76940.	
Section 335–3–9–.03	Crankcase Ventilation Systems	8/10/00	12/8/00; 65 FR 76940.	
Section 335–3–9–.04	Exhaust Emission Control Systems	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–9–.05	Evaporative Loss Control Systems	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–9–.06	Other Prohibited Acts	8/10/00	12/8/00; 65 FR 76940.	
Section 335–3–9–.07	Effective Date	10/15/96	6/6/97; 62 FR 30991.	
Chapter No. 335–3–12 Continuous Monitoring Requirements for Existing Sources				
Section 335–3–12–.01 ...	General	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–12–.02 ...	Emission Monitoring and Reporting Requirements.	2/17/98	9/14/98; 63 FR 49005.	
Section 335–3–12–.03 ...	Monitoring System Malfunction	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–12–.04 ...	Alternate Monitoring and Reporting Requirements.	6/22/89	3/19/90; 55 FR 10062.	
Section 335–3–12–.05 ...	Exemptions and Extensions	6/22/89	3/19/90; 55 FR 10062.	
Chapter No. 335–3–13 Control of Fluoride Emissions				
Section 335–3–13–.01 ...	General	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–13–.02 ...	Superphosphoric Acid Plants	10/15/96	06/6/97; 62 FR 30991.	

EPA APPROVED ALABAMA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
Section 335–3–13–.03 ...	Diammonium Phosphate Plants	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–13–.04 ...	Triple Superphosphoric Plants	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–13–.05 ...	Granular Triple Superphosphoric Storage Facilities.	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–13–.06 ...	Wet Process Phosphoric Acid Plants	10/15/96	6/6/97; 62 FR 30991.	
Chapter No. 335–3–14 Air Permits				
Section 335–3–14–.01 ...	General Provisions	2/17/98	9/14/98; 63 FR 49008.	
Section 335–3–14–.02 ...	Permit Procedures	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–14–.03 ...	Standards for Granting Permits	8/10/00	12/8/00; 65 FR 76940.	
Section 335–3–14–.04 ...	Air Permits Authorizing Construction in Clean Air Areas [:prevention of Significant Deterioration (PSD)].	7/11/06	5/1/08; 73 FR 23957	EPA is not approving Section 335–3–14–.04(2)(w)1.
Section 335–3–14–.05 ...	Air Permits Authorizing Construction in or Near Nonattainment Areas.	8/10/00	12/8/00; 65 FR 76940.	
Chapter No. 335–3–15 Synthetic Minor Operating Permits				
Section 335–3–15–.01 ...	Definitions	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–15–.02 ...	General Provisions	8/10/00	12/8/00; 65 FR 76940.	
Section 335–3–15–.03 ...	Applicability	11/23/93	10/20/94; 59 FR 52916.	
Section 335–3–15–.04 ...	Synthetic Minor Operating Permit Requirements	10/15/96	6/6/97; 62 FR 30991.	
Section 335–3–15–.05 ...	Public Participation	10/15/96	6/6/97; 62 FR 30991.	
Chapter No. 335–3–17 Conformity of Federal Actions to State Implementation Plans				
Section 335–3–17–.01 ...	Transportation Conformity	4/3/03	4/24/03; 68 FR 20075.	
Section 335–3–17–.02 ...	General Conformity	3/27/98	5/11/00; 65 FR 30361.	
Chapter No. 335–3–20 Control of Fuels				
Section 335–3–20–.01 ...	Definitions	10/24/00	11/7/01; 66 FR 56219.	
Section 335–3–20–.02 ...	Control of Fuels	10/24/00	11/7/01; 66 FR 56219.	
Section 335–3–20–.03 ...	Recordkeeping, Reporting, and Testing	10/24/00	11/7/01; 66 FR 56219.	

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(e) EPA Approved Alabama Non-Regulatory Provisions.

EPA APPROVED ALABAMA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
Birmingham 1990 Baseline Emissions Inventory.	Birmingham Ozone Nonattainment Area	11/13/92	6/4/99; 64 FR 29961.	
Alabama Interagency Transportation Conformity Memorandum of Agreement.		1/20/00	5/11/00; 65 FR 30362.	
Alabama Fuel Waiver Request—Appendix II of Attainment Demonstration of the 1-hour NAAQS for Ozone for the Birmingham Nonattainment Area.	Birmingham Ozone Nonattainment Area	12/1/00	11/7/01; 66 FR 56220.	
Attainment Demonstration of the 1-hour NAAQS for Ozone for the Birmingham Nonattainment Area.	Birmingham Ozone Nonattainment Area	12/1/00	11/7/01; 66 FR 56224.	
Maintenance Plan for the Birmingham area.	Jefferson County and Shelby County	1/30/04	3/12/04; 69 FR 11800.	

EPA APPROVED ALABAMA NON-REGULATORY PROVISIONS—Continued

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approval date	Explanation
8-Hour Ozone Maintenance plan for the Birmingham area.	Jefferson County and Shelby County	1/26/06	5/12/06.	

[FR Doc. E9–5732 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0513; FRL–8400–1]

Pendimethalin; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for combined residues of pendimethalin, [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine] and its metabolite 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol, in or on Bermuda grass forage and hay. This action is in response to crisis exemptions issued by the Texas Department of Agriculture and the Oklahoma Department of Agriculture under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on Bermuda grass pastures and hay fields. This regulation establishes a maximum permissible level for residues of pendimethalin in these feed commodities. The time-limited tolerances expire and are revoked on December 31, 2009.

DATES: This regulation is effective March 18, 2009. Objections and requests for hearings must be received on or before May 18, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0513. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Stacey Groce, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–2505; e-mail address: *Groce.Stacey@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0513 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before May 18, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2

may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2008–0513, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of FFDCA, 21 U.S.C. 346a(e) and 346a(1)(6), is establishing time-limited tolerances for combined residues of the herbicide, pendimethalin, [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine], and its metabolite 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol, in or on Bermuda grass forage and hay at 25 parts per million (ppm) and 60 ppm, respectively. These time-limited tolerances expire and are revoked on December 31, 2009. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR).

Section 408(l)(6) of FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related time-limited tolerances to set binding precedents for the application of section 408 of FFDCA to other tolerances and exemptions. Section 408(e) of FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemptions for Pendimethalin on Bermuda Grass Forage and Hay and FFDCA Tolerances

The Texas and Oklahoma Departments of Agriculture requested emergency exemptions for use of pendimethalin on Bermuda grass to control common sandbur and other sandbur species (*Cenchrus echinatus*), and issued crisis exemptions for this use pursuant to 40 CFR part 166, subpart C. The states provided information indicating that sandbur species is a serious pest that commonly infests Bermuda grass forage and hay fields. Pendimethalin has been authorized under FIFRA section 18 for use on Bermuda grass forage and hay to control sandbur in Texas and Oklahoma under the crisis provision.

As part of its evaluation of the emergency exemption applications, EPA assessed the potential risks presented by residues of pendimethalin in or on Bermuda grass forage and hay. In doing so, EPA considered the safety standard in section 408(b)(2) of FFDCA, and EPA decided that the necessary tolerances under section 408(l)(6) of FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemptions in order to address urgent non-routine situations and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6) of FFDCA. Although these time-limited tolerances expire and are revoked on December 31, 2009, under section 408(l) (5) of FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on Bermuda grass forage and hay after that date will not be unlawful, provided the pesticide was applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these time-limited tolerances at the time of that application. EPA will take action to revoke these time-limited tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these time-limited tolerances are being approved under emergency conditions, EPA has not made any decisions about whether pendimethalin meets FIFRA's registration requirements for use on Bermuda grass forage and hay or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these time-limited tolerance decisions serve as a basis for registration of pendimethalin by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for persons in any States other than Texas and Oklahoma to use this pesticide on the applicable crops under FIFRA section 18 absent the issuance of an emergency exemption applicable within that State. For additional information regarding the emergency exemption for pendimethalin, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a

reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

Consistent with the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of these actions. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure expected as a result of these emergency exemption requests and the time-limited tolerances for combined residues of pendimethalin [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine] and its metabolite 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol on Bermuda grass forage and hay at 25 ppm and 60 ppm, respectively. EPA's assessment of exposures and risks associated with establishing time-limited tolerances follows.

A. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, a toxicological point of departure (POD) is identified as the basis for derivation of reference values for risk assessment. The POD may be defined as the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) or a Benchmark Dose (BMD) approach is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the POD to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic dietary risks by comparing aggregate food and water exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the POD by all applicable UFs. Aggregate short-term, intermediate-term, and chronic-term risks are evaluated by comparing food, water, and residential exposure to the POD to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded. This latter value is referred to as the Level of Concern (LOC).

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect greater than that expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for pendimethalin used for human risk assessment can be found at *http://www.regulations.gov* in the May 20, 2008 document: *Pendamethalin. Human Health Risk Assessment for the Proposed Food/Feed Use of the Herbicide (associated with Section 18 Registration) on Bermuda Grass Forage and Hay Fields in Texas* on pages 6 and 7 of 22 in docket ID number EPA–HQ–OPP–2008–0513.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to pendimethalin, EPA considered exposure under the time-limited tolerances established by this action as well as exposures pursuant to existing tolerances in (40 CFR 180.361). EPA assessed dietary exposures from pendimethalin in food as follows:

i. *Acute exposure*. No acute effects were identified in the toxicological studies for pendimethalin; therefore, a quantitative assessment of acute dietary exposure was not conducted.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the United States Department of Agriculture (USDA) 1994–1996 and 1998 Continuing Survey of Food Intake by Individuals (CSFII). As to residue levels in food, EPA assumed tolerance-level residues of pendimethalin in or on all current and proposed raw agricultural commodities in 40 CFR 180.361, empirical processing factors obtained from processing studies, maximum theoretical concentration factor of 8.0 for wheat bran and wheat germ, and 1.4 for wheat flour, Dietary Exposure Evaluation Model (DEEM) 7.81 default processing factors were used for the remaining processed commodities, 100% crop treated, and 0.006 ppm pendimethalin estimated drinking water concentration (EDWC).

iii. *Cancer*. EPA has classified pendimethalin as a Group ''C'' possible human carcinogen, based on thyroid follicular cell adenomas observed in rats. The chronic dietary assessment using the cPAD is considered to be protective of any potential cancer effects because mode of action studies are available, which demonstrate that the thyroid tumors are due to a thyroid-pituitary imbalance. Pendimethalin has shown to be nonmutagenic in mammalian somatic cells and germ cells. Therefore, a separate cancer exposure assessment was not conducted.

iv. *Anticipated residue and percent crop treated (PCT) information*. EPA did not use anticipated residue and/or PCT information in the dietary assessment for pendimethalin. Tolerance level residues and/or 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water*. The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for pendimethalin in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of pendimethalin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI-GROW) models, the EDWCs of pendimethalin for acute exposures are estimated to be 77.7 parts per billion (ppb) for surface water and 0.036 ppb for ground water. For chronic exposures non-cancer assessments are estimated to be 6.0 ppb for surface water and 0.036 ppb for ground water.

Modeled EDWCs were directly entered into the dietary exposure model. An acute dietary endpoint was not identified; therefore a quantitative assessment of risk was not conducted for pendimethalin. For the chronic dietary risk assessment, the water concentration of value 6.0 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Pendimethalin is currently registered for the following uses that could result in residential exposures: Recreational and residential turf (including home lawns, golf courses, athletic fields, etc.), and ornamentals. EPA assessed residential exposure using the following assumptions: Exposures are short-term in duration, and consist of the following scenarios: (i) Dermal (adult and children) exposed to residential turf and (ii) oral exposure from hand-to-mouth, object-to-mouth, and soil ingestion for children only. The Agency combined all non-dietary sources of handler and post-

application exposure to obtain an estimate of potential aggregate exposure. The LOC for oral, dermal and inhalation exposure is an MOE of less than 300. The residential exposure estimate for adults (consisting of dermal exposure only) results in a total MOE of 740, and is therefore not of concern. Inhalation post-application was not assessed because there are no indoor residential uses associated with pendimethalin products, and inhalation exposure resulting from outdoor uses is expected to be negligible. The residential exposure for children results in total MOEs (dermal + oral) ≥400, based on application rates of 2 pounds active ingredient/acre (lbs. ai/acre) and 3 lbs. ai/acre. Residential aggregate exposure is not of concern.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found pendimethalin to share a common mechanism of toxicity with any other substances, and pendimethalin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that pendimethalin does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative*.

C. Safety Factor for Infants and Children

1. *In general*. Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for pre-natal and post-natal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional SF when reliable data available to EPA support the choice of a different factor.

2. *Pre-natal and post-natal sensitivity*. The pre- and post-natal toxicology database for pendimethalin includes rat and rabbit developmental toxicity studies and a 2–generation reproduction toxicity study in rats. There was no indication of pre-/or post-natal qualitative or quantitative increased susceptibility in the developmental studies in rats and rabbits or the 2-generation reproduction studies in rats. However, because developmental LOAELs could not be determined in the developmental studies, the Agency has requested developmental thyroid toxicity data in order to determine potential thyroid toxicity following pre- and/or post-natal exposure to pendimethalin.

The rabbit toxicity study with pendimethalin did not demonstrate maternal or developmental toxicity at doses up to 60 milligram/kilogram/day (mg/kg/day) (highest dose tested). Since neither maternal nor developmental toxicity was seen at the highest dose tested, potential for increased sensitivity of the offspring could not be determined.

In the 2–generation reproduction study in rats, there was no evidence of increased susceptibility of offspring. Effects in the pups (decreased pup body weight gain and possible decrease in number of pups born alive and pup survival) were seen at doses that also resulted in parental toxicity (decreased body weight).

3. *Conclusion*. EPA has determined that the FQPA SF of 10X must be retained. This decision is based on the following findings:

i. The toxicity database for pendimethalin contains all of the standard toxicity studies. However, there is uncertainty regarding potential thyroid effects seen in some of these studies. Based on the hormonal changes (alterations in thyroid weights and histopathological lesions) observed in several studies following oral administration of pendimethalin, it is likely that pendimethalin may cause disruption in the endocrine system. There is concern that perturbation of thyroid homeostasis may lead to hypothyroidism and possibly result in adverse effects on the developing nervous system. Consequently, EPA has recommended that a developmental thyroid assay be conducted to evaluate the impact of pendimethalin on thyroid hormones, structure, and/or thyroid hormone homeostasis during development. The 10X database UF will be retained for non-occupational exposure scenarios pending receipt of the study.

ii. Although, there is no evidence that pendimethalin results in increased susceptibility in in-utero rats or rabbits in the pre-natal developmental studies or in young rats in the 2–generation reproduction study, the developmental studies were not adequate to fully assess the potential for susceptibility. Consequently, there is concern for potential increased sensitivity or susceptibility in offspring regarding thyroid effects.

Although the exposure estimate is very conservative and there are no neurotoxic concerns for pendimethalin, there is sufficient uncertainty regarding thyroid effects, particularly thyroid effects in the young, that EPA is retaining the 10X FQPA safety factor. EPA has also determined that the traditional 10X UF to account for interspecies variation may be reduced to 3X since it has been established that rats are more susceptible to thyroid effects than humans. These factors, together with the traditional 10X UF to account for intraspecies variation, result in a total uncertainty factor of 300X (10X, 3X, and 10X).

D. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic pesticide exposures are safe by comparing aggregate exposure estimates to the aPAD and cPAD. The aPAD and cPAD represent the highest safe exposures, taking into account all appropriate SFs. EPA calculates the aPAD and cPAD by dividing the POD by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given the estimated aggregate exposure. Short-term, intermediate-term, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the POD to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

1. *Acute risk*. An acute aggregate risk assessment takes into account exposure estimates from acute dietary consumption of food and drinking water. None of the toxicology studies available for pendimethalin has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure was identified, therefore, dietary exposure presents no acute risks of concern.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic dietary exposure to

pendimethalin from food and water will utilize 15% of the cPAD for children 1 to 2 years old, the population group receiving the greatest exposure. Based on the use patterns, chronic residential exposure to residues of pendimethalin is not expected, so chronic risk is a function of dietary exposure alone. Thus the chronic aggregate exposure for the most exposed group is below EPA's LOC.

3. *Short-term risk*. Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Pendimethalin is currently registered for uses that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to pendimethalin.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that the combined short-term food, water, and residential exposures aggregated result in aggregate MOEs of 650 for adult males, 580 for adult females, and for children (1 to 2 years old) results in a total MOE of 350 or 340 depending on the application rate assessed at either 2 lbs. ai/acre or 3lbs. ai/acre. The aggregate MOEs for adults are based on the residential turf scenario and include combined food, drinking water and post-application dermal exposures. The aggregate MOEs for children include food, drinking water, post-application dermal and incidental oral exposures from entering turf areas previously treated with pendimethalin. Since the LOC for oral, dermal, and inhalation exposure is an MOE of less than 300, short-term aggregate exposure is not of concern for any of the population subgroups.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account intermediate-term non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level).

Pendimethalin is not registered for any use patterns that would result in intermediate-term residential exposure. Therefore, the intermediate-term aggregate risk is the sum of the risk from exposure to pendimethalin through food and water, which has already been addressed, and will not be greater than the chronic aggregate risk.

5. *Aggregate cancer risk for U.S. population*. Pendimethalin has been classified as a ''Group C'' possible human carcinogen based on thyroid follicular cell adenomas observed in rats. EPA concludes that the chronic dietary assessment is protective of any potential cancer effects.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to pendimethalin residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology is available to enforce the tolerance expression. Methods I through IV in the Pesticide Analytical Manual (PAM) Volume II are gas chromatography with electron capture detection (GC/ECD) methods for the determination of pendimethalin residues of concern in plant commodities. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are currently no Canadian, Mexican, or Codex maximum residue limits for pendimethalin on the commodities for which tolerances are being established.

VI. Conclusion

Therefore, time-limited tolerances are established for combined residues of the herbicide pendimethalin, [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine], and its metabolite 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol, in or on Bermuda grass forage and hay at 25 ppm and 60 ppm. These tolerances expire and are revoked on December 31, 2009.

VII. Statutory and Executive Order Reviews

This final rule establishes tolerances under sections 408(e) and 408(l)(6) of FFDCA on EPA's own initiative. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established in accordance with sections 408(e) and 408(l)(6) of FFDCA, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S.

Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 12, 2009.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.361 is amended by revising paragraph (b) to read as follows:

§ 180.361 Pendimethalin; tolerances for residues

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances specified in the following table are established for combined residues of the herbicide pendimethalin, [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine], and its metabolite 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol, in or on the specified agricultural commodities, resulting from use of the pesticide pursuant to FIFRA section 18 emergency exemptions. The tolerances expire and are revoked on the date specified in the table.

Commodity	Parts per million	Expiration/revocation date
Bermuda grass, forage	25	12/31/09
Bermuda grass, hay	60	12/31/09

* * * * *

[FR Doc. E9–5831 Filed 3–17–09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0936; FRL–8402–8]

Pyraclostrobin; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for combined residues of pyraclostrobin and its desmethoxy metabolite in or on sugarcane, cane and sugarcane, molasses. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on sugarcane. This regulation establishes a maximum permissible level for residues of pyraclostrobin and its desmethoxy metabolite in these food. The time-limited tolerances expire and are revoked on December 31, 2011.

DATES: This regulation is effective March 18, 2009. Objections and requests for hearings must be received on or before May 18, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0936. All documents in the docket are listed in the docket index available in *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Libby Pemberton, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9364; e-mail address: *pemberton.libby@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing electronically available documents at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR cite at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the Federal Food, Drug, and Cosmetic Act (FFDCA),

21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0936 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before May 18, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2008–0936, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of FFDCA, 21 U.S.C. 346a(e) and 346a(1)(6), is establishing time-limited tolerances for combined residues of the fungicide, pyraclostrobin; carbamic acid, [2-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl]phenyl]methoxy-, methyl ester and its desmethoxy metabolite; (methyl-*N*-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl]phenylcarbamate, expressed as parent compound, in or on sugarcane, cane at 0.02 parts per million (ppm) and sugarcane, molasses at 0.4 ppm. These time-limited tolerances expire and are revoked on December 31, 2011. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the CFR.

Section 408(l)(6) of FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related time-limited tolerances to set binding precedents for the application of section 408 of FFDCA and the new safety standard to other tolerances and exemptions. Section 408(e) of FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Pyraclostrobin on Sugarcane, cane and Sugarcane, molasses and FFDCA Tolerances

Florida and Louisiana declared a crisis exemption under FIFRA section 18 for the use of pyraclostrobin on sugarcane for control of Orange Rust (*Puccinia Keuhnii*) and/or Brown Rust (*Puccinia melanocephala*). EPA concurs that emergency conditions exist for these States, and that the criteria for an emergency exemption are met.

As part of its evaluation of the emergency exemption application, EPA assessed the potential risks presented by residues of pyraclostrobin in or on sugarcane, cane and sugarcane, molasses. In doing so, EPA considered the safety standard in section 408(b)(2) of FFDCA, and EPA decided that the necessary tolerance under section 408(l)(6) of FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6) of FFDCA. Although these time-limited tolerances expire and are revoked on December 31, 2011, under section 408(l)(5) of FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on sugarcane, cane and sugarcane, molasses. after that date will not be unlawful, provided the pesticide was applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these time-limited tolerances at the time of that application. EPA will take action to revoke these time-limited tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these time-limited tolerances are being approved under emergency conditions, EPA has not made any decisions about whether pyraclostrobin meets FIFRA's registration requirements for use on sugarcane, cane and sugarcane, molasses or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that this time-limited tolerance decision serves as a basis for registration of pyraclostrobin by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for persons in any State other than Florida and Louisiana to use this pesticide on these crops under FIFRA section 18 absent the issuance of an emergency exemption applicable within that State. For additional information regarding the emergency exemption for pyraclostrobin, contact the Agency's Registration Division at the address

provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure expected as a result of this emergency exemption request and the time-limited tolerances for combined residues of the fungicide, pyraclostrobin; carbamic acid, [2-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl]phenyl]methoxy-, methyl ester and its desmethoxy metabolite; (methyl-*N*-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl]phenylcarbamate, expressed as parent compound, in or on sugarcane, cane at 0.02 ppm and sugarcane, molasses at 0.4 ppm. EPA's assessment of exposures and risks associated with establishing time-limited tolerances follows.

A. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, a toxicological point of departure (POD) is identified as the basis for derivation of reference values for risk assessment. The POD may be defined as the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) or a Benchmark Dose (BMD) approach is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the POD to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic dietary risks by comparing aggregate food and water exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the POD by all applicable UFs. Aggregate short-term, intermediate-term, and chronic-term risks are evaluated by comparing food, water, and residential exposure to the POD to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded. This latter value is referred to as the Level of Concern (LOC).

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect greater than that expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for pyraclostrobin used for human risk assessment can be found at *http://www.regulations.gov* in document *Pyraclostrobin: Human Health Risk Assessment for Proposed Uses on Oats, Oilseed Group (Canola and Flax), Plus Seed Treatment on Oats, Canola, and Flax; Tropical Fruits (Avocado, Black Sapote, Canistel, Mamey Sapote, Mango; Papaya, Sapodilla, and Star Apple);Increased Tolerance on Barley; Adding Aerial Application to Turf and Ornamentals; and Adding In-Furrow Applications to Corn, Soybean, and Sugar Beets* pages 21 to 23 in docket ID number EPA–HQ–OPP–2007–0906–0004.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to pyraclostrobin, EPA considered exposure under the time-limited tolerances established by this action as well as all existing pyraclostrobin tolerances in (40 CFR 180.582). EPA assessed dietary exposures from pyraclostrobin in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. EPA identified such an effect for the general population (decreased body weight gain seen after a single oral dose in the rat acute neurotoxicity study) and for females 13 to 49 years old (increased resorptions/litter and increased total resorptions seen in the rabbit developmental toxicity study that are presumed to occur after a single exposure). The aPAD for the general population has been established at 3.0 milligrams/kilogram/day (mg/kg/day); whereas, the aPAD for females 13 to 49 years old is significantly lower (0.05 mg/kg/day), due to the more sensitive endpoint on which it is based. In estimating acute dietary exposure, EPA used food consumption information from the U.S. Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA assumed that residues are present at tolerance levels or for some commodities (amaranth, leafy; arugula; chrysanthemum; cress, garden; cress, upland; dandelion, leaves; fennel; parsley, leaves; radicchio; rhubarb; spinach; swiss chard; beans, dry; celery; lettuce, head; lettuce, leaf; and pea, dry) at the highest residue level found in residue field trials. One hundred percent crop treated (PCT) was assumed for all commodities in the assessment. Default processing factors were applied to all commodities except those for which experimentally-derived processing factors were available: Apple juice, grape juice, citrus juices, cottonseed oil, tomato paste, tomato puree, wheat flour, and wheat germ.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 CSFII. As to residue levels in food, EPA assumed that residues are present at tolerance levels in all crops except apple, broccoli, celery, collard, grape, lettuce, citrus, pepper, mustard green and tomato. EPA relied on anticipated residues (average residues from field trials) for these crops. One hundred PCT was assumed for all commodities in the assessment. Default processing factors were applied to all commodities except those for which experimentally-derived processing factors were available: Apple juice, grape juice, citrus juices, tomato paste, tomato puree, wheat flour, and wheat germ.

iii. *Cancer*. Based on the results of carcinogenicity studies in rats and mice, EPA has concluded that pyraclostrobin is ''not likely to be carcinogenic to humans.'' Consequently, a quantitative cancer exposure and risk assessment is not appropriate for pyraclostrobin.

iv. *Anticipated residue information.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such Data Call-Ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring data to complete a comprehensive dietary exposure analysis and risk assessment for pyraclostrobin in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the environmental fate characteristics of pyraclostrobin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*. Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI/GROW) models, the estimated environmental concentrations (EECs) of pyraclostrobin for acute exposures are estimated to be 35.6 parts per billion (ppb) for surface water and 0.02 ppb for ground water. The EECs for chronic exposures are estimated to be 2.3 ppb for surface water and 0.02 ppb for ground water. Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 35.6 ppb was used to assess the contribution to drinking water. For chronic dietary riskassessment, the water concentration value of 2.3 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Pyraclostrobin is currently registered for the following residential non-dietary sites: Residential and recreational turf grass. EPA assessed residential exposure using the following assumptions: Residential and recreational turf applications are applied by professional pest control operators (PCOs) only, and, therefore, residential handler exposures do not occur. There is, however, a potential for short-term and intermediate-term postapplication exposure of adults and children entering lawn and recreation areas previously treated with pyraclostrobin. Exposures from treated recreational sites are expected to be similar to, or in many cases lower than, those from treated residential turf sites; therefore, a separate exposure assessment for recreational turf sites was not conducted. EPA assessed exposures from the following residential turf post application scenarios:

i. Adult and toddler post application dermal exposure from contact with treated lawns

ii. Toddlers' incidental ingestion of pesticide residues on lawns from hand-to-mouth transfer

iii. Toddlers' object-to-mouth transfer from mouthing of pesticide-treated turf grass, and:

iv. Toddlers' incidental ingestion of soil from pesticide-treated residential areas. The post application risk assessment was conducted in accordance with the Residential Standard Operating Procedures (SOPs) and recommended approaches of the Health Effects Division's (HED's) Science Advisory Council for Exposure (Expo SAC).

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found pyraclostrobin to share a common mechanism of toxicity with any other substances, and pyraclostrobin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that pyraclostrobin does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative*.

C. Safety Factor for Infants and Children

1. *In general*. Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional SF when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity*. The prenatal and postnatal toxicology database for pyraclostrobin includes the rat and rabbit developmental toxicity studies and the 2-generation reproduction toxicity study in rats. There was no evidence of increased quantitative or qualitative susceptibility of *in utero* rats or offspring following exposure to pyraclostrobin in the rat developmental and reproduction studies. In the rabbit developmental study, there was evidence of increased qualitative susceptibility of *in utero* rabbits following exposure to pyraclostrobin (increases in resorptions/litter and post-implantation losses). However, this qualitative susceptibility seen in the rabbit developmental study does not indicate a heightened risk for infants or children because: The developmental effects were seen in the presence of maternal toxicity; there are clear NOAELs for maternal and developmental toxicities; and this endpoint is used in the acute dietary reference dose (RfD) exposure assessment for females, 13 years and older, as well as for short-term and intermediate-term dermal risk assessments.

3. *Conclusion*. EPA has determined that reliable data show that it would be safe for infants and children to reduce the FQPA safety factor to 1X. This

determination was exhaustively discussed in a prior order concerning pyraclostrobin, September 12, 2007 (72 FR 52108) (FRL–8144–4). In summary, the safety factor decision is based on the following findings:

i. The toxicity database for pyraclostrobin is complete.

ii. There is no indication that pyraclostrobin is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that pyraclostrobin results in increased susceptibility *in utero* rats in the prenatal developmental study orin young rats in the 2-generation reproduction study. Although there is qualitative evidence of increased susceptibility in the prenatal developmental study in rabbits, the Agency did not identify any residual uncertainties after establishing toxicity endpoints and traditional UFs to be used in the risk assessment of pyraclostrobin. The degree of concern for prenatal toxicity is low.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues or anticipated residues derived from reliable field trial data. Conservative ground water and surface water modeling estimates were used. Similarly, conservative assumptions were used to assess post-application dermal exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by pyraclostrobin.

D. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic pesticide exposures are safe by comparing aggregate exposure estimates to the aPAD and cPAD. The aPAD and cPAD represent the highest safe exposures, taking into account all appropriate SFs. EPA calculates the aPAD and cPAD by dividing the POD by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given the estimated aggregate exposure. Short-term, intermediate-term, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the POD to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

1. *Acute risk*: Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to pyraclostrobin will occupy 80% of the aPAD for (females 13–49 years) the population group receiving the greatest exposure.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to pyraclostrobin from food and water will utilize 48% of the cPAD for (children 1–2 years,) the population group receiving the greatest exposure. Based on the explanation in the unit regarding residential use patterns, chronic residential exposure to residues of pyraclostrobin is not expected.

3. *Short-term risk*. Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Pyraclostrobin is currently registered for uses that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for pyraclostrobin. Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that the aggregated food, water, and residential exposures result in aggregate MOEs of 200 for adults and 100 for children, 1 to 2 years old. The aggregate MOE for adults is based on the residential turf scenario and includes combined food, drinking water and post-application dermal exposures. The aggregate MOE for children includes food, drinking water, post-application dermal and incidental oral exposures from entering turf are as previously treated with pyraclostrobin.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Pyraclostrobin is currently registered for uses that could result in intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and intermediate-term exposures for pyraclostrobin. Since the endpoints and points of departure NOAELs are identical for short-term and intermediate-term exposures, the aggregate MOEs for intermediate-term exposure are the same as those for short-term exposure (200 for adults and 100 for children, 1 to 2 years old).

5. *Aggregate cancer risk for U.S. population*. EPA has classified pyraclostrobin into the category ''Not Likely to be Carcinogenic to Humans.'' Pyraclostrobin is not expected to pose a cancer risk.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to pyraclostrobin residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Two adequate enforcement methodologies (a Liquid Chromatography/Mass Spectrometry (LC/MS/MS) method (BASF Method D9808), and a High Performance Liquid Chromatography using Untraviolet Detection (HPLC/UV) method (BASF Method D9904)) are available to enforce the tolerance expression in/on plant commodities. Two more adequate methods have also been proposed for enforcing tolerances for livestock commodities: HPLC/UV method 439/0 and method 446 (consisting of CAS Chromatography/Mass Spectroscopy (GC/MS) method 446/0 and LC/MS/MS method 446/1) The methods may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

No Codex maximum residue levels have been established for residues of pyraclostrobin in or on these commodities.

VI. Conclusion

Therefore, time-limited tolerances are established for combined residues of the fungicide, pyraclostrobin; carbamic acid, [2-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl]phenyl]methoxy-, methyl ester and its desmethoxy metabolite; (methyl-*N*-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl]phenylcarbamate, expressed as parent compound, in or on sugarcane, cane at 0.02 ppm and sugarcane, molasses at 0.4 ppm. These tolerances expire and are revoked on December 31, 2011.

VII. Statutory and Executive Order Reviews

This final rule establishes tolerances under sections 408(e) and 408(l)(6) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and*

Review (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established in accordance with sections 408(e) and 408(l)(6) of FFDCA, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 24, 2009.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.582 is amended by alphabetically adding commodities to the table in paragraph (b) to read as follows:

§ 180.582 Pyraclostrobin; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
* * * *	*	
Sugarcane, cane	0.02	December 31, 2011
Sugarcane, molasses	0.4	December 31, 2011

* * * * *

[FR Doc. E9–5834 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0794; FRL–8399–5]

Formaldehyde, Polymer with 2-Methyloxirane and 4-Nonylphenol; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of formaldehyde, polymer with 2-methyloxirane and 4-nonylphenol (CAS Reg. No. 37523–33–4); when used as an inert ingredient in a pesticide chemical formulation. Akzo Nobel Surface Chemistry, LLC, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of formaldehyde, polymer with 2-methyloxirane and 4-nonylphenol on food or feed commodities.

DATES: This regulation is effective March 18, 2009. Objections and requests for hearings must be received on or before May 18, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0794. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP

Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT:

Alganesh Debesai, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8353; e-mail address: *debesai.alganesh@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing electronically available documents at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0794. in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before May 18, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2008–0794, by one of the following methods.

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of December 3, 2008 (73 FR 73651) (FRL–8391–3), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP 8E7421) filed by Akzo Nobel Surface Chemistry, LLC, (EPA Company Number 34688), 525 West Van Buren Street, Chicago, IL 60607–3823. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of formaldehyde, polymer with 2-methyloxirane and 4-nonylphenol (CAS Reg. No. 37523–33–4). That notice included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any comments.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and use in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . .'' and specifies factors EPA is to consider in establishing an exemption.

III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major

identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). Formaldehyde, polymer with 2-methyloxirane and 4-nonylphenol conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

7. The polymer's number average MW of 4,086 daltons is greater than 1,000 and less than 10,000 daltons. The polymer contains less than 10% oligomeric material below MW 500 and less than 25% oligomeric material below MW 1,000, and the polymer does not contain any reactive functional groups.

Thus, formaldehyde, polymer with 2-methyloxirane and 4-nonylphenol meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to formaldehyde, polymer with 2-methyloxirane and 4-nonylphenol.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that formaldehyde, polymer with 2-methyloxirane and 4-nonylphenol could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of formaldehyde, polymer with 2-methyloxirane and 4-nonylphenol is 4,086 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since formaldehyde, polymer with 2-methyloxirane and 4-nonylphenol conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects

Section 408 (b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or tolerance exemption, the Agency consider ''available information'' concerning the cumulative effects of a particular chemical's residues and ''other substances that have a common mechanism of toxicity.'' For the purposes of this tolerance action, EPA has not assumed that formaldehyde, polymer with 2-methyloxirane and 4-nonylphenol has a common mechanism of toxicity with other substances, based on the anticipated absence of mammalian toxicity. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative*.

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of formaldehyde, polymer with 2-methyloxirane and 4-nonylphenol, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of formaldehyde, polymer with 2-methyloxirane and 4-nonylphenol.

VIII. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Tolerances

The Agency is not aware of any country requiring a tolerance for formaldehyde, polymer with 2-methyloxirane and 4-nonylphenol nor have any CODEX Maximum Residue Levels been established for any food crops at this time.

IX. Conclusion

Accordingly, EPA finds that exempting residues of formaldehyde, polymer with 2-methyloxirane and 4-nonylphenol from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these rules from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA),

Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes, or otherwise have any unique impacts or local governments. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

Although this action does not require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. As such, to the extent that information is publicly available or was submitted in comments to EPA, the Agency considered whether groups or segments of the population, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

XI. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 12, 2009.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.960, the table is amended by adding alphabetically the following polymer to read:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * *	* *
Formaldehyde, polymer with 2-methyloxirane and 4-nonylphenol, minimum number average molecular weight (in amu), 4,000.	37523–33–4
* * *	* *

[FR Doc. E9–5832 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 315

[Docket No. MARAD 2009 0022]

RIN 2133–AB73

U.S. Citizenship for Contracts on RRF Vessels

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Final rule; clarification.

SUMMARY: On August 21, 2008, the Maritime Administration published the final rule in this docket to clarify Maritime Administration regulations which require that Agents (including Ship Managers) for the National Defense Reserve Fleet (NDRF) appointed by the Maritime Administration be United States citizens. The final rule was published with an effective date of the date of publication. Prior to publication, we inadvertently failed to submit the rule to Congress and the General Accounting Office (GAO), as required by the Congressional Review provisions in the Small Business Regulatory Enforcement Fairness Act (SBREFA). Therefore, the rule did not go into effect on the date of publication.

DATES: The applicability date for the final rule published at 73 FR 49357 (August 21, 2008) was March 13, 2009.

FOR FURTHER INFORMATION CONTACT: Jay Gordon, Office of the Chief Counsel, at (202) 366–5173, via e-mail at *Jay.Gordon@dot.gov*, or by writing to: Jay Gordon, Office of the Chief Counsel, Maritime Administration, MAR–221, 1200 New Jersey Avenue, SE., Washington DC 20590.

SUPPLEMENTARY INFORMATION:

Background

For complete background and regulatory analysis, see the original document published August 21, 2008 (73 FR 49357). This final rule indicated that it would be effective upon publication. Pursuant to Section 553 of the Administrative Procedure Act (APA), codified at 5 U.S.C. 553, with certain exceptions, substantive rules cannot take effect less than 30 days after publication, unless the agency finds good cause for doing so and provides a written explanation of any good cause found when the rule is published. The Maritime Administration (MARAD) provided no justification for the immediate effective date in the published rule document and, in fact, MARAD did not intend to avail itself of the good cause exception of 5 U.S.C.

553. In addition, in accordance with the Congressional Review provisions in SBEWFA, at 5 U.S.C. 801(a)(4), a final rule cannot ''take effect'' until the rule is submitted to Congress in accordance with 5 U.S.C. 801(a)(1). The rule was submitted to Congress on March 12, 2009.

According to the procedures established by the Administrative Committee of the **Federal Register** under the **Federal Register** Act (44 U.S.C. Chapter 15), the amendments to the Code of Federal Regulations (CFR) set out in this final rule were incorporated into the CFR on August 21, 2008, the effective date of the rule. However, because of the issues with the APA and the Congressional Review provisions, this rule could not become operative until March 13, 2009.

Accordingly, MARAD acknowledges that the rule was not operative and enforceable until March 13, 2009. MARAD further notes that because the rule establishes procedures that have not yet been utilized, neither the public, nor any regulated entities, were harmed in the interim period between publication of the rule and March 13, 2009.

Dated: March 9, 2009.

By Order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E9–5787 Filed 3–17–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 390

[Docket No. MARAD 2008 0075]

RIN 2133–AB71

Capital Construction Fund

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Final rule; clarification.

SUMMARY: On September 30, 2008, the Maritime Administration published the final rule in this docket to implement provisions of the Energy Independence and Security Act of 2007 and amend the definition of a ''qualified vessel'' under the Capital Construction Fund. The final rule was published with an effective date of the date of publication. Prior to publication, we inadvertently failed to submit the rule to Congress and the General Accounting Office (GAO), as required by the Congressional Review provisions in the Small Business Regulatory Enforcement Fairness Act (SBREFA). Therefore, the rule was not applicable on the date of publication.

DATES: The applicability date for the final rule published at 73 FR 56738 (September 30, 2008) was March 13, 2009.

FOR FURTHER INFORMATION CONTACT: Murray Bloom, Chief, Division of Maritime Programs, Maritime Administration at 202–366–5320, via e-mail at *Murray.Bloom@dot.gov*, or by writing to Murray Bloom, Office of the Chief Counsel, Maritime Administration, MAR–222, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

For complete background and regulatory analysis, see the original document published September 30, 2008 (73 FR 56741). This final rule indicated that it would be effective upon publication. Pursuant to Section 553 of the Administrative Procedure Act (APA), codified at 5 U.S.C. 553, with certain exceptions, substantive rules cannot take effect less than 30 days after publication, unless the agency finds good cause for doing so and provides a written explanation of any good cause found when the rule is published. The Maritime Administration (MARAD) provided no justification for the immediate effective date in the published rule document and, in fact, MARAD did not intend to avail itself of the good cause exception of 5 U.S.C. 553. In addition, in accordance with the Congressional Review provisions in SBREFA at 5 U.S.C. 801(a)(4), a final rule cannot ''take effect'' until the rule is submitted to Congress in accordance with 5 U.S.C. 801(a)(1). The rule was submitted to Congress on March 12, 2009.

According to the procedures established by the Administrative Committee of the Federal Register under the Federal Register Act (44 U.S.C. Chapter 15), the amendments to the Code of Federal Regulations (CFR) set out in this final rule were incorporated into the CFR on September 30, 2008, the effective date of the rule. However, because of the issues with the APA and the Congressional Review provisions, this rule could not become operative or enforceable until March 13, 2009.

Accordingly, MARAD acknowledges that the rule was not operative and enforceable until March 13, 2009. MARAD further notes that because the rule establishes procedures that have not yet been utilized, neither the public, nor any regulated entities, were harmed in the interim period between publication of the rule and March 13, 2009.

By Order of the Maritime Administrator.

Dated: March 9, 2009.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E9–5792 Filed 3–17–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0810141351–9087–02]

RIN 0648–XN75

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 ft (18.3 m) Length Overall Using Hook–and–Line or Pot Gear in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels less than 60 ft (< 18.3 m) length overall (LOA) using hook–and–line or pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2009 Pacific cod total allowable catch (TAC) allocated to catcher vessels < 60 ft LOA using hook–and–line or pot gear in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 16, 2009, through 2400 hrs, A.l.t., December 31, 2009.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

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

The 2009 Pacific cod TAC allocated to catcher vessels < 60 ft LOA using hook–and–line or pot gear in the BSAI is 3,033 metric tons as established by the 2009 and 2010 final harvest specification for

groundfish in the BSAI (74 FR 7359, February 17, 2009).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS, has determined that the 2009 Pacific cod directed fishing allowance allocated to catcher vessels less than 60 ft LOA using hook–and–line or pot gear in the BSAI has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels < 60 ft LOA using hook–and–line or pot gear in the BSAI.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod by catcher vessels < 60 ft LOA using hook–and–line or pot gear in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 12, 2009.

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

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

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

Dated: March 13, 2009.

Alan D. Risenhoover,

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

[FR Doc. E9–5825 Filed 3–13–09; 4:15 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 09100091344–9056–02]

RIN 0648–XN83

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 620 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the B season allowance of the 2009 total allowable catch (TAC) of pollock for Statistical Area 620 in the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 14, 2009, through 1200 hrs, A.l.t., August 25, 2009.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

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

The B season allowance of the 2009 TAC of pollock in Statistical Area 620 of the GOA is 5,413 metric tons (mt) as established by the final 2009 and 2010 harvest specifications for groundfish of the GOA (74 FR 7333, February 17, 2009).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the B season allowance of the 2009 TAC of pollock in Statistical Area 620 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 5,300 mt, and is setting aside the remaining 113 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 620 of the GOA.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of pollock in Statistical Area 620 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 12, 2009.

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

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

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

Dated: March 13, 2009.

Alan D. Risenhoover,

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

[FR Doc. E9–5830 Filed 3–13–09; 4:15 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register

Vol. 74, No. 51

Wednesday, March 18, 2009

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0240; Directorate Identifier 2009–CE–015–AD]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH Models DA 40 and DA 40F Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

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

A case was reported where the NLG leg of a DA 40 aircraft failed in the area of the nose gear leg pivot axle. The affected airplane was mostly operated on grass runways and used for training operations. The investigation showed that the failure was due to a fatigue crack that had developed in the pivot axle. Subsequent material inspections determined that these cracks may also develop on other aircraft, depending on the type of operation.

This condition, if not detected and corrected, could lead to further cases of NLG failure, possibly causing damage to the aircraft and injuries to occupants. To address and correct this unsafe condition, ACG issued AD A–2005–005 to require repetitive inspections of the NLG leg and, in case cracks are found, replacement of the NLG leg with a serviceable unit. Since that AD was issued, Diamond Aircraft Industries developed a redesigned NLG leg which is not affected by the cracking phenomenon addressed by AD A–2005–005.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by April 17, 2009.

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

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

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0240; Directorate Identifier 2009–CE–015–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On August 10, 2007, we issued AD 2007–17–06, Amendment 39–15164 (72 FR 46549, August 21, 2007). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2007–17–06, Diamond Aircraft Industries developed a redesigned NLG leg that is not affected by the cracking phenomenon addressed in Austro Control, which is the aviation authority for Austria, AD No. A–2005–005, dated November 15, 2005.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No. 2009–0016, dated January 22, 2009 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

A case was reported where the NLG leg of a DA 40 aircraft failed in the area of the nose gear leg pivot axle. The affected airplane was mostly operated on grass runways and used for training operations. The investigation showed that the failure was due to a fatigue crack that had developed in the pivot axle. Subsequent material inspections determined that these cracks may also develop on other aircraft, depending on the type of operation.

This condition, if not detected and corrected, could lead to further cases of NLG failure, possibly causing damage to the aircraft and injuries to occupants. To address and correct this unsafe condition, ACG issued AD A–2005–005 to require repetitive inspections of the NLG leg and, in case cracks are found, replacement of the NLG leg with a serviceable unit. Since that AD was issued, Diamond Aircraft Industries developed a redesigned NLG leg which is not affected by the cracking phenomenon addressed by AD A–2005–005.

For the reasons described above, this EASA AD retains the requirements of ACG AD A–2005–005, which is superseded, and excludes aircraft from the applicability that have the improved NLG leg installed.

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

Relevant Service Information

Diamond Aircraft Industries GmbH has issued Mandatory Service Bulletin No. MSB40–046/3, No. MSBD4–046/3,

dated November 17, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this proposed AD will affect 678 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $54,240, or $80 per product.

In addition, we estimate that any necessary follow-on actions will take about 5 work-hours and require parts costing $740, for a cost of $1,140 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–15164 (72 FR 46549, August 21, 2007), and adding the following new AD:

Diamond Aircraft Industries GmbH: Docket No. FAA–2009–0240; Directorate Identifier 2009–CE–015–AD.

Comments Due Date

(a) We must receive comments by April 17, 2009.

Affected ADs

(b) This AD supersedes AD 2007–17–06, Amendment 39–15164.

Applicability

(c) This AD applies to the following airplanes that:

(1) are certificated in any category; and

(2) are not equipped with a nose landing gear (NLG) leg part number (P/N) D41–3223–10–00_1 or higher (_2, _3, etc.).

Model	Serial numbers (S/N)
DA 40	All S/Ns beginning with 40.006.
DA 40F	All S/Ns beginning with 40.F001.
	All S/Ns beginning with 40.FC001.

Subject

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

Reason

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

A case was reported where the NLG leg of a DA 40 aircraft failed in the area of the nose gear leg pivot axle. The affected airplane was mostly operated on grass runways and used for training operations. The investigation showed that the failure was due to a fatigue crack that had developed in the pivot axle. Subsequent material inspections determined that these cracks may also develop on other aircraft, depending on the type of operation.

This condition, if not detected and corrected, could lead to further cases of NLG failure, possibly causing damage to the aircraft and injuries to occupants. To address and correct this unsafe condition, ACG issued AD A–2005–005 to require repetitive inspections of the NLG leg and, in case cracks are found, replacement of the NLG leg with a serviceable unit. Since that AD was issued, Diamond Aircraft Industries developed a redesigned NLG leg which is not affected by the cracking phenomenon addressed by AD A–2005–005.

For the reasons described above, this EASA AD retains the requirements of ACG AD A–2005–005, which is superseded, and excludes aircraft from the applicability that have the improved NLG leg installed.

Actions and Compliance

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

(1) Inspect the nose landing gear (NLG) leg for cracks within the next 12 months after September 25, 2007 (the effective date retained from AD 2007–17–06) or within the next 200 hours time-in-service (TIS) after September 25, 2007 (the effective date retained from AD 2007–17–06), whichever occurs later. Do the inspection following

Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40–046/1, No. MSBD4–046/1, dated April 25, 2007, or Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40–046/3, No. MSBD4–046/3, dated November 17, 2008.

(2) If any cracks are found during the inspection required in paragraph (f)(1) of the AD or during any inspection required in paragraph (f)(2)(ii) or (f)(3) of this AD, replace the NLG leg before further flight. Do the replacement following Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40–046/1, No. MSBD4–046/1, dated April 25, 2007; or Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40–046/3, No. MSBD4–046/3, dated November 17, 2008.

(i) Replacing a NLG leg with a part number (P/N) D41–3223–10–00_1 or higher (_2, _3, etc.) terminates the repetitive inspections required in this AD.

(ii) Replacing a NLG leg with a P/N D41–3223–10–00 requires repetitive inspections as specified in paragraph (f)(3) of this AD until a P/N D41–3223–10–00_1 or higher (_2, _3, etc.) is installed.

(3) If no cracks are found during the inspection required in paragraph (f)(1) of this AD or cracked NLG leg is replaced with a P/N D41–3223–10–00 NLG leg, repetitively inspect thereafter at intervals not to exceed 12 months or 200 hours TIS, whichever occurs later, until a P/N D41–3223–10–00_1 or higher (_2, _3, etc.) is installed. Do these repetitive inspections following Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40–046/3, No. MSBD4–046/3, dated November 17, 2008.

(i) If a repetitive inspection occurs before the effective date of this AD, then you may use Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40–046/1, No. MSBD4–046/1, dated April 25, 2007.

(ii) All inspections that occur after the effective date of this AD must be done following Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40–046/3, No. MSBD4–046/3, dated November 17, 2008.

(4) After installing a P/N D41–3223–10–00_1 or higher (_2, _3, etc.) as a replacement part, installing a NLG leg P/N D41–3223–10–00 is no longer allowed.

FAA AD Differences

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

Other FAA AD Provisions

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

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

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2009–0016, dated January 22, 2009; Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40–046/1, No. MSBD4–046/1, dated April 25, 2007; and Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40–046/3, No. MSBD4–046/3, dated November 17, 2008, for related information.

Issued in Kansas City, Missouri, on March 11, 2009.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–5764 Filed 3–17–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

Restricted Areas at Cape Canaveral Air Force Station, Patrick AFB, FL

AGENCY: United States Army Corps of Engineers, Department of Defense.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is proposing to amend the existing regulations at 33 U.S.C. 334 to enlarge an existing restricted area in the Banana River and to establish a new restricted area in the Atlantic Ocean for the Cape Canaveral Air Force Station (CCAFS), located on Patrick AFB, Florida. We are also proposing to remove an existing restricted area in the Banana River at CCAFS. CCAFS Command, located at Patrick AFB, Florida, is responding to Department of Defense (DoD) security assessments which have identified a need for CCAFS to have the capability to secure their shoreline. The proposed enhancement of these capabilities is necessary to counter postulated threats to CCAFS.

DATES: Written comments must be submitted on or before April 17, 2009.

ADDRESSES: You may submit comments, identified by docket number COE–2009–0001, by any of the following methods:

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

E-mail: david.b.olson@usace.army.mil. Include the docket number, COE–2009–0001, in the subject line of the message.

Mail: U.S. Army Corps of Engineers, Attn: CECW–CO (David B. Olson), 441 G Street, NW., Washington, DC 20314–1000.

Hand Delivery/Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

Instructions: Direct your comments to docket number COE–2009–0001. 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 commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through regulations.gov or e-mail. The regulations.gov Web site is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail directly to the Corps without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, we recommend 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 we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* All documents in the docket are listed. Although listed in

the index, some information is not publicly available, such as 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.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202–761–4922 or Mr. Jon M. Griffin, U.S. Army Corps of Engineers, Jacksonville District, Regulatory Division, at 904–232–1680.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3) the Corps is proposing to amend the regulations in 33 CFR part 334 by modifying § 334.540, removing § 334.550, and adding § 334.595. The proposal includes the removal of § 334.550 since it would now be completely encompassed by the expanded area of § 334.540.

The proposed amendments will allow the Commanding Officer, CCAFS to restrict passage of persons, watercraft, and vessels in waters contiguous to this Command, thereby ensuring that DoD identified security enhancements can be met.

Procedural Requirements

a. *Review Under Executive Order 12866.* The proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. *Review Under the Regulatory Flexibility Act.* The proposed rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments). Unless information is obtained to the contrary during the comment period, the Corps expects that the economic impact of the amendment of this restricted area would have practically no impact on the public, or result in no anticipated navigational hazard or interference with existing waterway traffic. This proposed rule, if adopted, will have no significant economic impact on small entities.

c. *Review Under the National Environmental Policy Act.* Due to the administrative nature of this action and because there is no intended change in the use of the area, the Corps expects that this regulation, if adopted, will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. An environmental assessment will be prepared after the public notice period is closed and all comments have been received and considered. It may be reviewed at the District office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

d. *Unfunded Mandates Act.* This proposed rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Reform Act (Pub. L. 104–4, 109 Stat. 48, 2 U.S.C. 1501 *et seq.*). We have also found under Section 203 of the Act, that small governments will not be significantly or uniquely affected by this rule.

List of Subjects in 33 CFR Part 334

Danger zones, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Revise § 334.540 to read as follows:

§ 334.540 Banana River at the Eastern Range, 45th Space Wing, Cape Canaveral Air Force Station, FL.; Restricted Area.

(a) *The area.* The restricted area shall encompass all navigable waters of the United States, as defined at 33 CFR part 329, within the Banana River contiguous to the area offshore of Cape Canaveral Air Force Station, Florida. The area is bounded by a line connecting the following coordinates: Commencing from the shoreline at the southeast portion of the area, at approximately latitude 28°25.17 N, longitude 80°36.24 W, thence directly to latitude 28°25.18′ N, longitude 80°36.65′ W, thence directly to latitude 28°25.25′ N, longitude 80°36.66′ W, thence directly to latitude 28°25.22′ N, longitude 80°38.36′ W, thence directly to latitude 28°26.23′ N, longitude 80°38.25′ W, thence directly to latitude 28°26.23′ N, longitude 80°38.47′ W, thence to reach the south side of the Kennedy Space Center NASA Causeway East Roadway at approximately latitude 28°30.74′ N, longitude 80°36.63′ W.

(b) *The regulation.* (1) The area described in paragraph (a) of this section will be closed when it is deemed necessary by the Commander, 45th Space Wing or his/her designee to address any perceived threat to the local area. With the exception of local, State and federal law enforcement entities, all persons, vessels, and other craft are prohibited from entering, transiting, anchoring, or drifting within the restricted area when it is closed without the permission of the Commander, 45th Space Wing or his/her designee.

(2) Due to the nature of this restricted area, closures may occur with very little advance notice. Closure of the area shall be noticed by the display of a red beacon located at the southern entrance to Cape Canaveral Air Force Station. Information will be provided via Marine Radio broadcast during the duration of the area closure.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commander, 45th Space Wing, Patrick Air Force Base, Florida and/or such persons or agencies as he/she may designate.

§ 334.550 [Removed]

3. Remove § 334.550.

4. Add § 334.595 to read as follows:

§ 334.595 Atlantic Ocean off Cape Canaveral; 45th Space Wing, Cape Canaveral Air Force Station, FL.; Restricted Area.

(a) *The area.* The restricted area shall encompass all navigable waters of the United States, as defined at 33 CFR part 329, contiguous to the area offshore of Cape Canaveral Air Force Station, Florida. The area is bounded by a line connecting the following coordinates: Commencing from the shoreline at the northwest portion of the area, at latitude 28°35.008′ N, longitude 80°34.448′ W, thence directly to latitude 28°35.617′ N, longitude 80°33.140′ W, thence following the mean high water line southerly at a distance of 1.5 miles to a point at latitude 28°24.253′ N longitude 80°33.658′ W, thence proceeding westerly to terminate at a point on the shoreline at latitude 28°24.69′ N, longitude 80°35.05′ W.

(b) *The regulation.* (1) The area described in paragraph (a) of this section will be closed when it is deemed necessary by the Commander, 45th Space Wing or his/her designee to address any perceived threat to the local area. With the exception of local, State and federal law enforcement entities, all persons, vessels, and other craft are prohibited from entering, transiting, anchoring, or drifting within the restricted area when it is closed without

the permission of the Commander, 45th Space Wing or his/her designee.

(2) Due to the nature of this restricted area, closures may occur with very little advance notice. Closure of the area shall be noticed by the display of a red ball and red beacon from a 90-foot pole near the shoreline at approximately latitude 28°35.0′ N, longitude 80°34.8′ W and from a 90-foot pole near the shoreline at approximately latitude 28°25.3′ N, longitude 80°35.0′ W. Information will be provided via Marine Radio broadcast and a warning statement displayed on an electronic marquee sign located on the north side of the Port Canaveral ship channel between the Trident and Poseidon Wharf during the duration of the area closure.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commander, 45th Space Wing, Patrick Air Force Base, Florida and/or such persons or agencies as he/she may designate.

Dated: *March 9, 2009.*

Michael Ensch,

Chief, Operations, Directorate of Civil Works.

[FR Doc. E9–5746 Filed 3–17–09; 8:45 am]

BILLING CODE 3710–92–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[EPA–HQ–OAR–2003–0064; FRL–8783–4]

RIN 2060–AP49

Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA is proposing to delay the effective date for the Environmental Protection Agency (''EPA'') rule addressing ''aggregation'' under the Prevention of Significant Deterioration (''PSD'') and the nonattainment New Source Review (''nonattainment NSR'') programs (collectively, ''NSR'') published in the **Federal Register** on January 15, 2009. This rule (the ''NSR Aggregation Amendments'') described when a source must combine (''aggregate'') nominally-separate physical changes and changes in the method of operation for the purpose of determining whether they are a single change resulting in a significant emissions increase.

On January 30, 2009, the Natural Resources Defense Council (''NRDC'') submitted a petition for reconsideration (the ''NRDC Petition'') of the NSR Aggregation Amendments. In response to the NRDC Petition, EPA announced on February 13, 2009, that it would convene a reconsideration proceeding for the NSR Aggregation Amendments and would delay the effective date of the rule from February 17, 2009 until May 18, 2009. In this action, EPA is proposing an additional delay of the effective date of the NSR Aggregation Amendments and soliciting comment on the duration of this additional delay in order to allow for sufficient time to conduct the reconsideration proceeding.

DATES: *Comments.* Comments must be received on or before April 17, 2009.

Public Hearing. If anyone contacts EPA requesting a public hearing by March 30, 2009, we will hold a public hearing on April 2, 2009. If a hearing is held, the record for the hearing will remain open until May 4, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0064, 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.*
- *Mail:* Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* Environmental Protection Agency, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2003–0064. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (''CBI'') or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: The final rule, the petition for reconsideration, and all other documents in the record for the rulemaking are in Docket ID. No. EPA–HQ–OAR–2003–0064. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket and Information Center, EPA/DC, EPA West Building, Room 3334, 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, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566–1742.

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: Mr. David J. Svendsgaard, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504–03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–2380; fax number: (919) 541–5509; e-mail address *svendsgaard.dave@epa.gov.*

To request a public hearing, please contact Mrs. Pam Long, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504–03), U.S. Environmental Protection Agency,

Research Triangle Park, NC 27711; telephone number: (919) 541–0641; fax number: (919) 541–5509; e-mail address: *long.pam@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

Entities potentially affected this proposed action include sources in all industry groups and state, local, and tribal governments.

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 on 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. What Information Should I Know About the Public Hearing?

EPA will hold a hearing only if a party notifies EPA by March 30, 2009, expressing its interest in presenting oral testimony on issues addressed in this notice. Any person may request a hearing by calling Mrs. Pam Long at (919) 541–0641 before 5 p.m. on March 30, 2009. Persons interested in presenting oral testimony should contact Mrs. Pam Long at (919) 541–0641. Any person who plans to attend the hearing should also contact Mrs. Pam S. Long at (919) 541–0641 or visit the EPA's Web site at *http://www.epa.gov/nsr* and to learn if a hearing will be held.

If a public hearing is held on this notice, it will be held at the U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20004. Because the hearing will be held at a U.S. Government facility, everyone planning to attend should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. Please check our Web site at *http://www.epa.gov/nsr* concerning the public hearing.

If held, the public hearing will begin at 10 a.m. and end 1 hour after the last registered speaker has spoken. The hearing will be limited to the subject matter of this document. Oral testimony will be limited to 5 minutes. The EPA encourages commenters to provide written versions of their oral testimony either electronically (on computer disk or CD–ROM) or in paper copy. The list of speakers will be posted on EPA's Web site at *http://www.epa.gov/nsr*. A verbatim transcript and written statements will be included in the rulemaking docket.

A public hearing would provide interested parties the opportunity to present data, views, or arguments concerning issues addressed in this notice. The EPA may ask clarifying questions during the oral presentations, but would not respond to the presentations or comments at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at a public hearing.

E. How Is This Preamble Organized?

The information presented in this preamble is organized as follows:

I. General Information
  A. Does This Action Apply to Me?
  B. What Should I Consider as I Prepare My Comments for EPA?
  C. Where Can I Get a Copy of This Document and Other Related Information?
  D. What Information Should I Know About the Public Hearing?
  E. How is This Document Organized?
II. This Action
III. Statutory and Executive Order Reviews
  A. Executive Order 12866: Regulatory Planning and Review
  B. Paperwork Reduction Act
  C. Regulatory Flexibility Act
  D. Unfunded Mandates Reform Act
  E. Executive Order 13132—Federalism
  F. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments
  G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
  H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
  I. National Technology Transfer Advancement Act
  J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
  K. Determination Under Section 307(d)
IV. Statutory Authority

II. This Action

On January 15, 2009, the EPA (''we'') issued a final rule amending our PSD and nonattainment NSR regulations implementing the definition of ''modification'' in the Clean Air Act (''CAA'') 111(a)(4). The amendments addressed when a source must combine (''aggregate'') nominally-separate physical changes and changes in the method of operation for the purpose of determining whether they are a single change resulting in a significant emission increase. The amendments retained the rule language for aggregation but interpreted that rule text to mean that sources and permitting authorities should combine emissions when activities are ''substantially related.'' The rule also adopted a rebuttable presumption that activities at a plant can be presumed not to be substantially related if they occur three or more years apart. Collectively, this rulemaking is known as the ''NSR Aggregation Amendments.'' For further information on the NSR Aggregation Amendments, please *see* 74 FR 2376 (January 15, 2009).

On January 30, 2009, the Natural Resources Defense Council (''NRDC'') submitted a petition for reconsideration

of the NSR Aggregation Amendments as provided for in CAA 307(d)(7)(B).[1] Under that CAA provision, the Administrator may commence a reconsideration proceeding if the petitioner raises an objection to a rule that was impracticable to raise during the comment period or if the grounds for the objection arose after the comment period. In either case, the objection must be of central relevance to the outcome of the rule. The Administrator may stay the effectiveness of the rule for up to three months during such reconsideration.

On February 13, 2009, we issued notices announcing the convening of a reconsideration proceeding in response to the NRDC petition and an administrative stay of the NSR Aggregation Amendments, which delayed the effective date of the NSR Aggregation Rule for 90 days from February 17, 2009 until May 18, 2009. *See* 74 FR 7193 and 74 FR 7284 (February 13, 2009). As noted above, our authority to delay the effective date of a rule solely under the Administrator's discretion is limited to three months. On occasion, however, we have found three months to be insufficient to complete the necessary steps in the reconsideration process. Therefore, when we have issued similar administrative stays in the past, it has often been our practice to also propose an additional extension of the stay of effectiveness through a rulemaking process. An additional extension enables us to take comment on issues that are in question and complete any revisions of the rule that become necessary as a result of the reconsideration process.

As with some of our past reconsiderations, we expect to take comment on a broad range of legal and policy issues as part of the NSR Aggregation Amendments reconsideration, and we are in the process of preparing the necessary comment solicitation to help focus commenters on issues of central relevance to our decision-making. Recognizing that these issues may be difficult and time consuming to evaluate, and given the expected high level of interest from stakeholders in commenting on these issues, we are proposing additional time to open these issues for review and comment.

Therefore, we propose to delay the effective date of the NSR Aggregation Amendments, FR Doc. E9–815, published in the **Federal Register** on January 15, 2009 (74 FR 2376), until November 18, 2009. This delay would be for an additional six months, which we believe would provide a reasonable period of time to complete action on the reconsideration. As alternatives, we also solicit comment on longer periods for a delay of effectiveness: (1) until February 18, 2010 (nine additional months) or (2) May 18, 2010 (12 additional months).

Note that we are not taking comment at this time on any substantive issues from the NSR Aggregation Amendments. This notice simply proposes to further extend the effective date, so comments should be limited to the issue of whether and how long to extend the effective date of the rule. A separate **Federal Register** notice published in the near future will specifically solicit comment on the range of issues under reconsideration.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

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

B. Paperwork Reduction Act

This action does not impose any new information collection burden. We are not promulgating any new paperwork requirements (*e.g.*, monitoring, reporting, recordkeeping) as part of this proposed action. However, the Office of Management and Budget (''OMB'') has previously approved the information collection requirements contained in the existing regulations (40 CFR parts 51 and 52) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., and has assigned OMB control number 2060–0003. 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 proposal 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'') size standards. (See 13 CFR 121.); (2) A governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) A small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impact of these proposed revisions to the regulations on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposal will not impose any requirements on small entities.

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 (''UMRA''), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The action imposes no enforceable duty on any State, local or tribal governments or the private sector. Therefore, this action is not 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 it contains no regulatory requirements that might significantly or uniquely affect small governments. The EPA has determined that these proposed regulation revisions contain no regulatory requirements that may significantly or uniquely affect small governments, including tribal governments because these regulations affect Federal agencies only.

E. Executive Order 13132—Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by state and local officials in the development of regulatory policies that have Federalism implications.'' Policies that have ''Federalism implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.''

This action does not have Federalism implications. It will not have substantial

[1] John Walke, Natural Resources Defense Council, EPA–HQ–OAR–2003–0064–0116.1.

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 proposed rule, if made final, would delay the effective date of the NSR Aggregation Amendments and allow for sufficient time to conduct the reconsideration. Thus, Executive Order 13132 does not apply to these proposed regulation revisions.

In the spirit of Executive Order 13121 and consistent with EPA policy to promote communications between EPA and state and local governments, EPA is soliciting comments on this proposal 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. No tribal government currently has an approved tribal implementation plan under the CAA to implement the NSR program, therefore the Federal government is currently the NSR reviewing authority in Indian country. Thus, tribal governments should not experience added burden from this proposed action. Thus, Executive Order 13175 does not apply.

EPA specifically solicits additional comment on the proposed revisions to the regulations from Tribal officials.

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

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because this proposal is taking comment on delaying the effective date of the NSR Aggregation Amendments and allows for sufficient time to conduct the reconsideration. However, EPA solicits comments on whether the proposal would result in an adverse environmental effect that would have a disproportionate effect on children.

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

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

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

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

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

Executive Order 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 revision is taking comment on delaying the effective date of the NSR Aggregation Amendments and allows for sufficient time to conduct the reconsideration. As such, it does not adversely affect the health or safety of minority or low income populations.

K. Determination Under Section 307(d)

Pursuant to sections 307(d)(1)(E) and 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.''

IV. Statutory Authority

The statutory authority for this action is provided by sections 307(d)(7)(B), 101, 111, 114, 116, and 301 of the CAA as amended (42 U.S.C. 7401, 7411, 7414, 7416, and 7601). This notice is also subject to section 307(d) of the CAA (42 U.S.C. 7407(d)).

List of Subjects

40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Baseline emissions, Intergovernmental relations, Aggregation, Major modifications, Reporting and recordkeeping requirements.

40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Baseline emissions, Intergovernmental relations, Aggregation, Major modifications, Reporting and recordkeeping requirements.

Dated: March 12, 2009.

Lisa P. Jackson,

Administrator.

[FR Doc. E9–5996 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

48 CFR Parts 3009 and 3052

[Docket No. DHS–2009–0017]

RIN 1601–AA55

Prohibition on Federal Protective Service Guard Services Contracts With Business Concerns Owned, Controlled, or Operated by an Individual Convicted of a Felony [HSAR Case 2009–001]

AGENCY: Department of Homeland Security (DHS).

ACTION: Proposed rule with request for comments.

SUMMARY: DHS is proposing to amend the Homeland Security Acquisition Regulation (HSAR) to prohibit DHS from awarding a Federal Protective Service (FPS) contract for guard services to a business concern that is owned, controlled, or operated by an individual who has been convicted of a serious felony. The rule is necessary to implement the provisions of Public Law 110–356, the Federal Protective Service Guard Contracting Reform Act of 2008.

DATES: *Comment date:* Interested parties should submit written comments to the

Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, on or before April 17, 2009.

ADDRESSES: Please submit written comments, identified by agency name and docket number DHS–2009–0017, by one of the following methods:

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

(2) By mail to the Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, ATTN: Gloria Sochon, 245 Murray Drive, Bldg. 410 (RDS) Washington, DC 20528.

FOR FURTHER INFORMATION CONTACT: Gloria Sochon, Senior Procurement Analyst, at (202) 447–3507 for clarification of content. Please cite HSAR Case 2008–002.

SUPPLEMENTARY INFORMATION:

I. Request for Comments
II. Background
III. Discussion of Proposed Rule
IV. Regulatory Requirements
A. Executive Order 12866 Assessment
B. Regulatory Flexibility Act
C. Paperwork Reduction Act

I. Request for Comments

Interested persons are invited to participate in this rulemaking by submitting written views and arguments on all aspects of this rule. Comments should be organized by HSAR Part, and address the specific section that is being commented on. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. See **ADDRESSES** above for information on how to submit comments. If you submit comments by mail, please submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you would like DHS to acknowledge receipt of comments submitted by mail, please enclose a self addressed stamped post card or envelope. DHS will consider all comments and material received during the comment period.

Docket: For access to the docket in order to read background documents or comments received, go to *http://www.regulations.gov.*

II. Background

Public Law 110–356, the Federal Protective Service Guard Contracting Reform Act of 2008, prohibits DHS from awarding an FPS contract for guard services to any business concern that is owned, controlled, or operated by an individual who has been convicted of a felony. The proposed rule would implement this prohibition, identify which serious felonies may prohibit a contractor from being awarded a contract; require contractors to provide information regarding any relevant felony convictions when submitting bids or proposals; provide guidelines for the contracting officer to assess present responsibility, mitigating factors, and the risk associated with the previous conviction, and allow the contracting officer to award a contract under certain circumstances.

The rule proposes that felonies which cast doubt on the integrity or business ethics of a business concern or are of a nature that is inconsistent with the mission of the Federal Protective Service are serious felonies which will prohibit a business concern from being awarded an FPS contract for guard services. Examples of serious felony convictions may include, but are not limited to: Fraud arising out of a contract with the federal, state or local government; bribery, graft or a conflict of interest; threatened or actual harm to a government official, family member or government property; crimes of violence; threat to national security; commercial bribery; counterfeiting, forgery or trafficking in vehicles the identification numbers of which have been altered; obstruction of justice, perjury or subornation of perjury, or bribery of a witness; felony for attempt to evade or defeat Federal tax or felony for willful failure to collect or pay over Federal tax.

The proposed HSAR clause will require offerors to disclose whether they are or are not a business concern owned, controlled or operated by an individual convicted of a felony. If an offeror represents that they are owned, controlled or operated by an individual convicted of a felony they will need to submit a new award request with their bid or proposal or a previously approved award request. The award request will provide the basis for the request and details regarding the felony conviction to include: Name and date of birth of the individual convicted of a felony, the age of the conviction, nature and circumstances surrounding the conviction, protective measures taken by the individual or business concern to reduce or eliminate the risk of further misconduct, whether the individual has made full restitution for the felony and whether the individual has accepted responsibility for past misconduct resulting in the felony conviction.

The proposed clause also provides that after award of an Indefinite Delivery/Indefinite Quantity Contract, Blanket Purchase Agreement, or other contractual instrument that may result in the issuance of task orders, calls, or exercise of options to extend the term of the contract, the contractor must provide notice of a felony conviction of any person who owns, controls, or operates the business concern. The contracting officer will review the conviction and make a new determination of eligibility prior to the issuance of any task order, call, or exercise of any option.

The proposed rule would allow the contracting officer to review the basis for the award request and assess the risk associated with the felony conviction. Under certain circumstances, the contracting officer could award a contract for guard services to a business concern owned, controlled or operated by an individual convicted of a felony. Prior to such an award, the contracting officer will need to obtain the approval of the Head of the Contracting Activity for U.S. Immigration and Customs Enforcement.

III. Discussion of Proposed Rule

The proposed rule would revise HSAR 48 CFR 3009.1 and add a clause 3052.209–XX to implement Public Law 110–356. It also makes technical corrections to HSAR 48 CFR 3009.1.

IV. Regulatory Requirements

A. Executive Order 12866 Assessment

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. The rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Homeland Security certifies that the proposed rule amending HSAR 48 CFR 3009.1 and 3052.209 will not, if promulgated, have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The factual basis for certification is presented in the following analysis of the economic effects of the proposed rule. Application of the rule is limited to offerors or contractors providing guard services under the Federal Protective Service contract security guard program. Further, for these offerors and contractors, the economic impact of the rule is not expected to be substantial. Currently, FPS administers a contract inventory consisting of approximately 125 contract vehicles for guard services with 46 different guard service vendors. These FPS contracts provide 14,000 contract guards to protect 9,000 federal facilities. In FY2008, DHS issued

approximately 47 solicitations for guard services and awarded 55 contracts. For each solicitation issued, an average of 10 offerors responded.

The 46 vendors that provide guard services to FPS represent less than one percent of the industry. In 2005, the Small Business Administration, based on Bureau of Census data, estimated that there were 4,853 firms in Security Guards and Patrol Services Industry, North American Industry Classification System (NAICS) 561612 (Reference **Federal Register** notices of November 10, 2005 (70 FR 68368) and June 30, 2006 (71 FR 37490)). The Central Contractor Registration database (*http://www.ccr.gov*) currently lists 5,784 active records for NAICS 561612. Of these, 2,361, or 41 percent are identified as small businesses.

Only those vendors that represent that they are owned, controlled, or operated by an individual convicted of a felony will need to submit a new award request with their bid or proposal or a previously approved award request. After award, a contractor will need to disclose felony convictions that occur during the term of the contract. DHS estimates that this may affect ten percent of offerors (fewer than 50 per year -47 solicitations $\times 10$ offerors per solicitation $\times .1$) and ten percent of contractors (fewer than five per year—46 guard service vendors $\times .1$)). The award request must provide the basis for the request and details regarding the felony conviction to include: The age of the conviction, nature and circumstances surrounding the conviction, protective measures taken by the individual or business concern to reduce or eliminate the risk of further misconduct, whether the individual has made full restitution for the felony and whether the individual has accepted responsibility for past misconduct resulting in the felony conviction. Under certain circumstances, the contracting officer may still award a contract for guard services to a business concern owned, controlled or operated by an individual convicted of a felony. Only those felonies that cast doubt on the integrity or business ethics of the business concern or are of a nature that are inconsistent with the mission of the Federal Protective Service will prohibit a business concern from being awarded an FPS contract for guard services. Examples of serious felony convictions may include, but are not limited to: fraud arising out of a contract with the federal, state or local government, bribery, graft or a conflict of interest, threatened or actual harm to a government official, family member or government property, crimes of violence, threat to national security, commercial bribery, counterfeiting, forgery or trafficking in vehicles the identification numbers of which have been altered, obstruction of justice, perjury or subornation of perjury, or bribery of a witness, felony for attempt to evade or defeat Federal tax or felony for willful failure to collect or pay over Federal tax.

Therefore, DHS has not performed an initial regulatory flexibility analysis. DHS invites comments from small businesses and other interested parties. DHS also will consider comments from small entities concerning the affected HSAR subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite HSAR Case 2008–0002.

C. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. Chapter 35) applies because the rule contains information collection requirements.

(1) The clause at 3052.209–XX requires each offeror for FPS contract guard services to disclose whether it is owned, controlled or operated by an individual convicted of a felony. The representation is necessary to evaluate the offeror's responsibility related to performing the required services in accordance with Public Law 110–356. An offeror that is owned, controlled or operated by a felon must also submit an award request with supporting documentation. DHS has determined that the burden for the responses is within the total estimated burden for information requested from prospective contractors in response to agency-issued solicitations approved under OMB Control No. 1600–0005. Based on FY2008 statistics, DHS has approximately 470 respondents to solicitations for contract guard services per year (47 solicitations with an average of 10 offers per solicitation), all of whom will make the representation. Of these, DHS estimates that 10 percent (47 per year) may submit award requests. DHS estimates the total burden on offerors to be 211.5 hours. This represents .1 percent of the total burden hours under OMB Control No. 1600–0005.

(2) The clause at 3052.209–XX requires the contractor to report felony convictions after award of an Indefinite Delivery/Indefinite Quantity Contract, Blanket Purchase Agreement, or other contractual instrument that may result in the issuance of task orders, calls, or exercise of options to extend the term of the contract. The notice applies to a felony conviction of any person who owns, controls, or operates the business concern. DHS has determined that the burden for the responses is within the total estimated burden for information requested from contractors in response to OMB Control No. 1600–003 for information requested from contractors as part of post-contract award administration by DHS acquisition officials. DHS has 125 contracts for FPS guard services. Of these, DHS estimates that 10 percent will also submit a notice of felony conviction. DHS estimates the total burden on contractors to be 25 hours. This represents less than .001 percent of the total burden hours under OMB Control No. 1600–0003.

List of Subjects in 48 CFR Parts 3009 and 3052

Government procurement.

Richard K. Gunderson,

Acting Chief Procurement Officer, Department of Homeland Security.

■ Accordingly, DHS amends 48 CFR parts 3009 and 3052 as follows:

■ 1. The authority citation for 48 CFR parts 3009 and 3052 continues to read as follows:

Authority: 41 U.S.C. 418b (a) and (b).

PART 3009—CONTRACTOR QUALIFICATIONS

■ 2. Redesignate section 3009.104–70 as section 3009.170 and redesignate sections 3009.104–71 through 3009.104–75 as sections 3009.170–1 through 3009.170–5, respectively.

■ 3. Add sections 3009.171 through 3009.171–9 to subpart 3009.1 to read as follows:

3009.171 Prohibition on Federal Protective Service guard services contracts with business concerns owned, controlled, or operated by an individual convicted of a felony.

3009.171–1 General.

Except as provided in HSAR 48 CFR 3009.171–6, the Department of Homeland Security (DHS) may not enter into a contract for guard services under the Federal Protective Service (FPS) guard services program with any business concern owned, controlled, or operated by an individual convicted of a serious felony.

3009.171–2 Definitions.

As used in this subpart—

Business concern means a commercial enterprise and the people who constitute it.

Convicted of a felony means any conviction of a felony in violation of state or federal criminal statutes, including the Uniform Code of Military Justice, whether entered on a verdict or

plea, including a plea of *nolo contendere,* for which a sentence has been imposed.

Felony means an offense punishable by death or imprisonment for a term exceeding one year.

Individual means any person, corporation, partnership, or other entity with a legally independent status.

3009.171–3 Determination of eligibility for award of FPS guard service contracts.

(a) Contracting officers shall make a determination of eligibility for award of FPS guard service contracts upon identification of the apparent successful offeror as a result of a solicitation for offers

(b) Contractors shall be required to immediately notify the contracting officer in writing upon any felony conviction of personnel who own, control or operate a business concern as defined in (HSAR) 48 CFR 3009.171–4 at any time during the duration of an Indefinite Delivery/Indefinite Quantity Contract, Blanket Purchase Agreements, or other contractual instrument that may result in the issuance of task orders, calls or option to extend the terms of a contract. Upon notification of a felony conviction the contracting officer will review and make a new determination of eligibility prior to the issuance of any task order, call or exercise of an option.

3009.171–4 Determination of ownership, control, or operation.

(a) The extent to which an individual owns, controls, or operates a business concern is determined on a case-by-case basis and depends on the specific facts of the individual's situation. Upon the request of the contracting officer, and prior to contract award, such individual must provide documentation to the contracting officer to use in determining ownership, control, or operation. The refusal to provide or to timely provide such documentation may serve as grounds to preclude contract award.

(b) The interest of a spouse or other family member in the same business concern will be imputed to the individual in determining the extent to which the individual owns, controls, or operates the business concern.

(c) The following are examples of when an individual owns, controls, or operates a business concern. The examples are not inclusive.

(1) The individual is the president or chief executive officer of the business concern.

(2) The individual is a senior level executive within the business concern, such as the Chief Financial Officer, Chief Operating Officer or Chief contracting official.

(3) The individual is a general partner in the business concern.

(4) An individual who is a general partner in a limited partnership has control. An individual with a limited partnership interest of 25% or more has ownership or control.

(5) An individual owns, controls, or operates a business concern when the individual has the:

(i) Power to vote, directly or indirectly, 25% or more interest in any class of voting stock of the business concern;

(ii) Ability to direct in any manner the election of a majority of the business concern's directors or trustees; or

(iii) Ability to exercise a controlling influence over the business concern's management and policies.

3009.171–5 Serious felonies prohibiting award.

(a) Not all felony convictions will prohibit a business concern from being awarded a contract for FPS guard services. Those felonies that cast doubt on the integrity or business ethics of the business concern, or are of a nature that are inconsistent with the mission of the Federal Protective Service, are considered serious felonies that will prohibit contract award.

(b) The following are examples of serious felonies prohibiting contract award.

(1) Conviction of a felony involving fraud arising out of a contract with the federal, state or local government.

(2) Conviction of a felony for bribery, graft or a conflict of interest.

(3) Conviction of a felony involving threatened or actual harm to a government official or family member.

(4) Conviction of a felony involving threatened or actual harm to government property.

(5) Conviction of a felony involving a crime of violence.

(6) Conviction of a felony involving a threat to national security.

(7) Conviction of a felony for commercial bribery, counterfeiting, forgery or trafficking in vehicles the identification numbers of which have been altered.

(8) Conviction of a felony for obstruction of justice, perjury or subornation of perjury, or bribery of a witness.

(9) Conviction of a felony for attempt to evade or defeat Federal tax.

(10) Conviction of a felony for willful failure to collect or pay over Federal tax.

(11) Conviction on any other felony that meets the criteria of paragraph (a) of this subsection.

3009.171–6 Guidelines for contracting officers.

(a) In accordance with FAR subpart 9.4, a contracting officer may not award a contract for FPS guard services to any business concern that is suspended, debarred or proposed for debarment unless the agency head determines that there is a compelling reason for such action.

(b) The contracting officer shall not award a contract for FPS guard services to any business concern that is otherwise nonresponsible on the same contract.

(c) The contracting officer shall not award an FPS guard services contract to any business concern that is owned, controlled or operated by an individual convicted of a serious felony as defined in (HSAR) 48 CFR 3009.171–5 except as provided in paragraph (e) of this subsection.

(d) In making the determination of (HSAR) 48 CFR 3009.171–7, the contracting officer may not review the fact of the conviction itself, but may consider any information provided by the individual or business concern, and any information known to the contracting officer. Factors that the contracting officer may consider include, but are not limited to:

(1) The age of the conviction.

(2) The nature and circumstances surrounding the conviction.

(3) Protective measures taken by the individual or business concern to reduce or eliminate the risk of further misconduct.

(4) Whether the individual has made full restitution for the felony.

(5) Whether the individual has accepted responsibility for past misconduct resulting in the felony conviction.

(e) The contracting officer may determine that the conviction of an otherwise serious felony is of such age, or committed under such circumstances, that the underlying felonious misconduct no longer calls into question the individual or business concern's integrity or business ethics, or that it is not inconsistent with the mission of the Federal Protective Service. Any such determination must be approved by the Head of the Contracting Activity (HCA) for U.S. Immigration and Customs Enforcement.

3009.171–7 Contract award approval procedures for contractors with felony convictions.

(a) The HCA for U.S. Immigration and Customs Enforcement has sole discretion to approve a request to permit award of a contract for FPS guard services to a business concern owned,

controlled, or operated by an individual convicted of a felony, for any reason permitted by this regulation. This authority is not delegable.

(b) A business concern owned, operated or controlled by an individual convicted of a felony may submit an award request to the contracting officer. The basis for such request shall be that the subject felony is not a serious felony as defined by this regulation, or that such individual no longer owns, controls or operates the business concern. The business concern shall bear the burden of proof for award requests.

(c) A copy of the award approval request with supporting documentation or the approved request shall be attached with the bid or proposal.

(d) An award approval request shall contain the basis for the request. If the basis for the request is that the subject felony is not a serious felony as defined by this regulation the award approval request shall contain, at a minimum, the following information:

(1) Name and Date of Birth of Individual Convicted of a felony

(2) Date sentenced

(3) Statute/Charge

(4) Docket/Case Number

(5) Court/Jurisdiction

(6) The nature and circumstances surrounding the conviction

(7) Protective measures taken by the individual or business concern to reduce or eliminate the risk of further misconduct.

(8) Whether the individual has made full restitution for the felony

(9) Whether the individual has accepted responsibility for past misconduct resulting in the felony conviction.

(e) If the contracting officer is unable to affirmatively determine that the subject felony is not a serious felony as defined by this regulation, or that such individual no longer owns, controls or operates the business concern, the contracting officer shall deny the award approval request and not forward such request to the HCA for U.S. Immigration and Customs Enforcement

(f) If the contracting officer affirmatively determines that the subject felony is not a serious felony as defined by this regulation, or that such individual no longer owns, controls or operates the business concern, the contracting officer shall refer the request to the HCA for U.S. Immigration and Customs Enforcement with a recommendation that the request be approved.

3009.171–8 Ineligible contractors.

Any business concern determined to be ineligible for award under (HSAR) 48 CFR 3009.171–4 shall be ineligible to receive a contract for guard services under the Federal Protective Service guard program until such time as:

(a) The concern demonstrates that it has addressed and resolved the issues that resulted in the determination of ineligibility, and

(b) Either:

(1) The contracting officer makes an affirmative determination that the business concern is not owned, operated, or controlled by an individual convicted of a felony based on current information, or

(2) The HCA for U.S. Immigration and Customs Enforcement approves an award request under (HSAR) 48 CFR 3009.171–6.

3009.171–9 Clause.

Insert the clause (HSAR) 48 CFR 3052.209–XX, Prohibition on Federal Protective Service guard services contracts with business concerns owned, controlled, or operated by an individual convicted of a felony, in all solicitations and contracts for FPS guard services.

PART 3052—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Add section 3052.209–XX as follows:

3052.209–XX Prohibition on Federal Protective Service guard services contracts with business concerns owned, controlled, or operated by an individual convicted of a felony

As prescribed at (HSAR) 48 CFR 3009.171–9, insert the following clause:

Prohibition on Federal Protective Service Guard Services Contracts With Business Concerns Owned, Controlled, or Operated by an Individual Convicted of a Felony (Date)

(a) Prohibitions. Section 2 of the Federal Protective Service Guard Contracting Reform Act of 2008, Public Law 110–356, prohibits the Department of Homeland Security from entering into a contract for guard services under the Federal Protective Service (FPS) guard services program with any business concern owned, controlled, or operated by an individual convicted of a serious felony.

(b) Definitions. As used in this clause:

Business concern means a commercial enterprise and the people who constitute it.

Felony means an offense punishable by death or imprisonment for a term exceeding one year.

Convicted of a felony means any conviction of a felony in violation of state or federal criminal statutes, including the Uniform Code of Military Justice, whether entered on a verdict or plea, including a plea of *nolo contendere*, for which a sentence has been imposed.

Individual means any person, corporation, partnership, or other entity with a legally independent status.

(c) The extent to which an individual owns, controls, or operates a business concern is determined on a case-by-case basis and depends on the specific facts of the individual's situation. Upon the request of the Contracting Officer, and prior to contract award, such individual must provide documentation to the Contracting Officer to use in determining ownership, control, or operation. The refusal to timely provide such documentation may serve as grounds to preclude contract award.

(1) The interest of a spouse or other family member in the same organization will be imputed to the individual in determining the extent to which the individual owns, controls, or operates a business concern.

(2) The following are examples of when an individual owns, controls, or operates a business concern. The examples are not inclusive.

(i) The individual is the president or chief executive officer of the business concern.

(ii) The individual is a senior level executive within the business concern, such as the Chief Financial Officer, Chief Operating Officer or Chief contracting official.

(iii) The individual is a general partner in the business concern.

(iv) An individual who is a general partner in a limited partnership has control. An individual with a limited partnership interest of 25% or more has ownership or control.

(v) An individual owns, controls, or operates a business concern when the individual has the:

(A) Power to vote, directly or indirectly, 25% or more interest in any class of voting stock of the business concern; Ability to direct in any manner the election of a majority of the business concern's directors or trustees; or

(B) Ability to exercise a controlling influence over the business concern's management and policies.

(d) Award request.

(1) A business concern owned, operated or controlled by an individual convicted of a felony may submit an award request to the Contracting Officer. The basis for such request shall be that the subject felony is not a serious felony as defined by this regulation, or that such individual no longer owns, controls or operates the business concern. The business concern shall bear the burden of proof for award requests.

(2) If the Contracting Officer, in his or her sole discretion, is unable to affirmatively determine that the subject felony is not a serious felony as defined by this regulation, or that such individual no longer owns, controls or operates the business concern, the Contracting Officer shall deny the award request. The Head of the Contracting Activity for U.S. Immigration and Customs Enforcement has sole discretion to approve an award request.

(3) A copy of the award request with supporting documentation or the approved award request shall be attached with the bid or proposal.

(4) An award request shall contain the basis for the request. If the basis for the

request is that the subject felony is not a serious felony as defined by this regulation the award request shall contain, at a minimum, the following information:

(i) Name and Date of Birth of Individual Convicted of a felony.

(ii) Date sentenced.

(iii) Statute/Charge.

(iv) Docket/Case Number.

(v) Court/Jurisdiction.

(vi) The nature and circumstances surrounding the conviction.

(vii) Protective measures taken by the individual or business concern to reduce or eliminate the risk of further misconduct.

(viii) Whether the individual has made full restitution for the felony

(ix) Whether the individual has accepted responsibility for past misconduct resulting in the felony conviction.

(e) Privacy Statement. The offeror will provide the following statement to any individual whose information will be submitted in an award request pursuant to paragraph (d)(4) of this clause.

Privacy Act Notice. The collection of this information is authorized by the Federal Protective Service Guard Contracting Reform Act of 2008 (Pub. L. 110–356) and Department of Homeland Security (DHS) implementing regulations at Homeland Security Acquisition Regulation (HSAR) 48 CFR 3009.171. This information is being collected to determine whether an individual that owns, controls, or operates the business concern submitting this offer has been convicted of a felony that would disqualify the offeror from receiving an award. This information will be used by and disclosed to DHS personnel and contractors or other agents who require this information to determine whether an award request should be approved or denied. Additionally, DHS may share this personal information with the U.S. Justice Department and other Federal and State agencies for collection, enforcement, investigatory, or litigation purposes, or as otherwise authorized pursuant to its published Privacy Act system of records notice. Submission of this information by the individual is voluntary, however, failure to provide it may result in denial of an award to the offeror.

(f) Disclosure. The offeror under this solicitation represents that [Check one]:

____it is not a business concern owned, controlled, or operated by an individual convicted of a felony; or

____it is a business concern owned, controlled, or operated by an individual convicted of a felony, and has submitted an award request pursuant to paragraph (d) of this clause.

(g) If a request is applied for, the offeror shall attach the request with supporting documentation, to the bid or proposal. The supporting documentation may include copies of prior award requests granted to the offeror.

(h) The notification in this paragraph applies if this is an indefinite delivery/indefinite quantity contract, blanket purchase agreement, or other contractual instrument that may result in the issuance of task orders, calls or option to extend the terms of a contract. The Contractor must immediately notify the Contracting Officer in writing upon any felony conviction of personnel who own, control or operate a business concern as defined in paragraph (c) of this clause at any time during the performance of this contract. Upon notification of a felony conviction the Contracting Officer will review and make a new determination of eligibility prior to the issuance of any task order, call or exercise of an option.

(End of clause)

[FR Doc. E9–5795 Filed 3–17–09; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 090220217–9226–01]

RIN 0648–AX66

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Resources of the Gulf of Mexico; Commercial Sector of the Reef Fish Fishery of the Gulf of Mexico; Control Date

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

ACTION: Advance notice of proposed rulemaking; consideration of a control date.

SUMMARY: NMFS announces that it is establishing a revised control date that may be used to control future access to the commercial sector of the reef fish fishery operating in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf). If changes to the management regime are developed and implemented under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), a control date could be used to limit the number of participants in the fishery. This announcement is intended, in part, to promote awareness of the potential eligibility criteria for future access so as to discourage speculative entry into the fishery while the Gulf of Mexico Fishery Management Council (Council) and NMFS consider whether and how access to the commercial sector of the reef fish fishery should be controlled.

DATES: Comments must be received on of before 5 p.m., eastern time, April 17, 2009.

ADDRESSES: You may submit comments, identified by RIN 0648–AX66, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov.*
- Mail: Cynthia Meyer, NMFS Southeast Regional Office, Sustainable Fisheries Division, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: *http://www.regulations.gov*, enter ''NOAA-NMFS–2009–0039'' in the keyword search, then select ''Send a Comment or Submission.'' NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

SUPPLEMENTARY INFORMATION: The commercial sector of the Gulf reef fish fishery is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Council, and implemented under the authority of the Magnuson-Stevens Act. A moratorium on the issuance of new commercial reef fish permits was established by Amendment 4 to the FMP in May 1992. The moratorium has been maintained since that time with the implementation of Amendments 9, 11, and 17. The Council implemented Amendment 24 on August 17, 2005, to replace the commercial reef fish permit moratorium that was set to expire on December 31, 2005, with a permanent limited access system.

This notice would inform participants in the Gulf reef fish fishery of the Council's intention to consider further limiting access within the commercial sector of the Gulf reef fish fishery. Specifically, the Council may consider creating additional restrictions including limiting participation by gear type or by specific species to only those vessels or participants that have catch histories in excess of some minimum landings threshold. Should the Council take such future action to further restrict participation in the commercial sector of the Gulf reef fish fishery, it intends to use December 31, 2008, as a possible control date regarding the eligibility of

catch histories. This date was announced at the Council's January 2009 meeting, and was chosen because it coincides with the end of the immediately preceding fishing year in which landings would be documented. Publication of the control date in the **Federal Register** informs participants of the Council's considerations, and gives notice to anyone entering the fishery after the control date they would not be assured of future access should a management regime be implemented using the control date as a means to restrict participation. Implementation of any such program would require preparation of an amendment to the FMP and subsequent rulemaking with appropriate public comment periods.

Consideration of a control date does not commit the Council or NMFS to any particular management regime or criteria for eligibility in the commercial sector of the Gulf reef fish fishery. The Council may or may not make use of this control date as part of the qualifying criteria for participation in that sector of the fishery. Fishermen are not guaranteed future participation in a fishery regardless of their entry date or intensity of participation in the fishery before or after the control date under consideration. The Council subsequently may choose a different control date or a management regime that does not make use of a control date. The Council also may choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded.

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

Dated: March 12, 2009.

James W. Balsiger,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E9–5864 Filed 3–17–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

RIN 0648–AW49

Fisheries in the Western Pacific; Pelagic Fisheries; Hawaii-based Shallow-set Longline Fishery

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

ACTION: Notice of availability of fishery management plan amendment; request for comments.

SUMMARY: NMFS announces that the Western Pacific Fishery Management Council (Council) proposes to amend the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (FMP). If approved by the Secretary of Commerce (Secretary), Amendment 18 would remove the annual limit on the number of fishing gear deployments (sets) for the Hawaii-based pelagic longline fishery. The amendment would also revise the current maximum limit on the number of physical interactions that occur annually between loggerhead sea turtles and vessels registered for use under Hawaii longline limited access permits while shallow-setting. Other measures currently applicable to the fishery would remain unchanged. Amendment 18 is intended to increase opportunities for the shallow-set fishery to sustainably harvest swordfish and other fish species, without jeopardizing the continued existence of sea turtles and other protected resources.

DATES: Comments on Amendment 18 must be received by May 18, 2009.

ADDRESSES: You may send comments on Amendment 18, identified by 0648–AW49, to either of the following addresses:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal www.regulations.gov; or
- Mail: Mail written comments to William L. Robinson, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814–4700.

Instructions: All comments received are a part of the public record and will generally be posted to *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the commenter may be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

Copies of Amendment 18 (which includes a final supplemental environmental impact statement) are available from *www.regulations.gov*, and the Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, fax 808–522–8226, *www.wpcouncil.org*.

FOR FURTHER INFORMATION CONTACT: Adam Bailey, Sustainable Fisheries Division, NMFS PIR, 808–944–2248.

SUPPLEMENTARY INFORMATION:

Electronic Access

This proposed rule is also accessible at *www.gpoaccess.gov/fr*.

Background

The Hawaii-based shallow-set pelagic longline fishery primarily targets swordfish in the western Pacific north of the Hawaiian Archipelago. The fishery is carefully regulated through a management program intended, among other goals, to reduce the number and severity of unintended bycatch interactions, particularly between longline fishing gear and sea turtles. Management measures include the mandatory use of large (18/0) offset circle hooks and mackerel-type bait, and 100 percent observer coverage. The required use of circle hooks and mackerel-type bait has reduced the sea turtle interaction rate by approximately 90 percent for loggerheads, and 83 percent for leatherbacks, compared to the period 1994–2002 when the fishery was operating without such requirements.

Because the use of circle hooks and mackerel-type bait have proven effective in reducing sea turtle interaction rates, the Council has recommended in Amendment 18 changes to the management program that would enable the shallow-set fishery to increase and sustainably harvest swordfish and other fish, without jeopardizing the continued existence and recovery of threatened and endangered sea turtles and other protected resources.

Amendment 18 would remove the annual limit on the number of longline shallow sets. The shallow-set certificate program, which is used to monitor and control the number of sets, with the elimination of set limits. Amendment 18 would also increase the number of allowable incidental interactions between longline fishing gear to 46 for loggerhead sea turtles (from the current limit of 17). The allowable interaction limit for leatherback sea turtles would remain unchanged at 16.

All other measures currently applicable to the fishery would remain unchanged, including, but not limited to, limited access permits, vessel and gear marking requirements, vessel length restrictions, Federal catch and effort logbooks, 100 percent observer coverage, large longline restricted areas around the Hawaiian Archipelago, vessel monitoring system (VMS), annual protected species workshops, and the use of sea turtle, seabird, and marine

mammal handling and mitigation gear and techniques.

The proposed management changes are intended to further the intent of the Magnuson-Stevens Fishery Conservation and Management Act by fostering optimum yield from the shallow-set longline fishery, while minimizing bycatch and associated bycatch mortality.

Public comments on proposed Amendment 18 must be received by May 18, 2009 to be considered by NMFS in the decision to approve, partially approve, or disapprove the amendment. A proposed rule to implement the measures recommended in Amendment 18 has been prepared for Secretarial review and approval, and NMFS expects to publish and request public comment on the proposed rule in the near future.

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

Dated: March 13, 2009.

Emily H. Menashes,

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

[FR Doc. E9–5888 Filed 3–17–09; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 74, No. 51
Wednesday, March 18, 2009

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Giant Sequoia National Monument Management Plan EIS

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Department of Agriculture, Forest Service is preparing an Environmental Impact Statement (EIS) to establish management direction for the land and resources within the Giant Sequoia National Monument (GSNM) created by Presidential Proclamation on April 15, 2000. The Forest Service, as the responsible agency, proposes to amend the 1988 Sequoia National Forest Land and Resource Management Plan (1988 Forest Plan) to provide for the protection of the objects of interest identified in the Proclamation.

DATES: Comments concerning the scope of the analysis must be received by May 4, 2009. The draft environmental impact statement is expected September 2009 and the final environmental impact statement is expected March 2010.

ADDRESSES: Send written comments to Marianne Emmendorfer, Project Leader, Sequoia National Forest Headquarters, 1839 South Newcomb Street, Porterville, CA 93257, and Attention: Monument Management Plan, or via facsimile to (559) 781–4744.

It is important that reviewers provide their comments at such times and in such a way that they are useful to the Agency's preparation of the EIS. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. The submission of timely and specific comments can affect a reviewer's ability to participate in subsequent administrative review or judicial review.

Comments received in response to this solicitation, including names and addresses of those who comment, will become part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the respondent with standing to participate in subsequent administrative review or judicial review.

FOR FURTHER INFORMATION CONTACT: Marianne Emmendorfer, Project Leader, Sequoia National Forest, at the address listed above. Her telephone number is 559–338–2251, extension 313. Information regarding the monument and the planning process can also be found on the Giant Sequoia National Monument Web site located at *http://www.fs.fed.us/r5/sequoia/gsnm*.

The Sequoia National Forest is using the Giant Sequoia National Monument Management Plan to pilot software from Limehouse Software™ that allows documents to be posted to a Web site for your review and comment. Please visit the Limehouse Software Web site *http://gsnm-consult.limehouse.com/portal/* to enter comments electronically. Additional documents will be posted that are relevant to the management plan. When you visit the Web site, please register to access all the features of this Web site and to receive automatic notifications when documents are posted. A guided tour, showing how to use the site, is available, as well as help files, explaining how to use the Web site.

FOR FURTHER INFORMATION CONTACT: Individuals who use telecommunication devised for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

On April 15, 2000, a Presidential Proclamation creating the Giant Sequoia National Monument was signed. The Proclamation designated 327,769 acres within the boundary of the Sequoia National Forest as a National Monument to provide protection for a variety of objects of historic and scientific interest, including giant sequoia trees and their surrounding ecosystem. The Proclamation required establishment of a monument management plan within three years, and establishment of a scientific advisory board to assist in development of this plan. A scientific advisory board was appointed, in consultation with the National Academy of Sciences, to provide scientific guidance during the development of the 2004 Giant Sequoia National Monument Management Plan Final Environmental Impact Statement (FEIS) and Record of Decision. A Giant Sequoia National Monument Management Plan Record of Decision was signed on January 12, 2004. The monument plan was challenged and litigation was filed in the United States District Court for the Northern District of California on January 27, 2005 (*Sierra Club, et al.*, v. *Bosworth, et al.*, No. C–05–00397 CRB) and March 3, 2005 (*People of the State of California, ex rel. Lockyer* v. *United States Department of Agriculture, et al.*, No. C–05–00898 CRB). In October 2006, Federal District Court, Judge Charles Breyer, found in favor of the plaintiffs in both cases and remanded the Plan to the USDA Forest Service ''* * * so that a proper Monument Plan can be developed in accordance with the Presidential Proclamation, * * * and in compliance with the National Environmental Policy Act (NEPA) * * *'' *Calif. ex rel. Lockyer* v. *USDA*, No. C–05–00898 (N.D. Cal., Oct. 11, 2006).

There are a number of resources and direction that are applicable to the entire Sequoia National Forest that also need to be addressed in the Giant Sequoia National Monument management plan to some extent. The 2004 Giant Sequoia National Monument plan specified that it relied on the 2001 Sierra Nevada Forest Plan Amendment (SNFPA) FEIS and Record of Decision, due in part to the fact that the supplemental SNFPA EIS was being developed at the same time as the monument plan. However, the 2004 SNFPA contained updated scientific research regarding fire and fuels, and wildlife habitat information. This current analysis for the monument will rely on the most current scientific information available. Where applicable it may adopt existing direction from other sources including the 2004 SNFPA.

In addition, though California condors fit the description of ''rare and endemic species'' for which the monument was established, these birds have historically

used portions of the Sequoia National Forest (SQF). Therefore, direction for condor habitat will be provided within the monument portion of the SQF in the management plan, with the knowledge that any updated management direction for condor habitat outside the Monument will be addressed in the Sequoia National Forest plan revision.

Mediated Settlement Agreement

The 1990 Mediated Settlement Agreement to the Sequoia National Forest Land Management Plan (MSA) states, ''In the interim period between signing this Agreement and finalizing an amendment incorporating this Agreement into the Plan, the Parties agree that the provisions of this Agreement shall be implemented according to the schedules indicated throughout this document.'' A review is currently being conducted to determine which of the provisions of the MSA have been incorporated into amendments to the 1988 Sequoia National Forest Land and Resource Management Plan. The preliminary review found that there are a number of provisions yet to be fully incorporated in amendments. Therefore, applicable provisions of the MSA will be addressed in the Giant Sequoia National Monument management plan environmental analysis.

Proclamation

The Proclamation stated, ''Laws, regulations, and policies pertaining to administration by the Department of Agriculture of grazing permits and timber sales under contract as of the date of this proclamation on National Forest System lands within the boundaries of the Monument shall continue to apply to lands within the Monument. Nothing in this proclamation shall be deemed to affect existing special use authorizations; existing uses shall be governed by applicable laws, regulations, and management plans. Nothing in this proclamation shall be deemed to revoke any existing withdrawal, reservation, or appropriation; however, the national monument shall be the dominant reservation.'' [Proclamation 7295, 65 FR 24095, 24098 (Apr. 25, 2000)].

In addition, the Proclamation stated, ''Removal of trees, except for personal use fuel wood, from within the monument area may take place only if clearly needed for ecological restoration and maintenance or public safety.'' (65 FR 24097). Public use in the Monument is defined as scientific research, interpretation and conservation education regarding natural and cultural resources, activities authorized under special use permits, recreation activities and current commodity uses (*i.e.*, grazing, fuelwood cutting, etc.) under applicable laws, regulations and policies regarding their administration.

The Proclamation also stated, ''The final decision to issue any management plans and any management rules and regulations rests with the Secretary of Agriculture. Management plans or rules and regulations developed by the Secretary of the Interior governing uses within national parks or other national monuments administered by the Secretary of the Interior shall not apply within the Giant Sequoia National Monument.'' (65 FR 24098).

It is not within the purpose or authority of the Presidential Proclamation that established the Giant Sequoia National Monument to change existing:

- State jurisdiction over fish and game management;
- Water rights;
- Laws, policies and regulations pertaining to permits and projects under current contract;
- Special use authorizations; and
- Withdrawals, reservations, or appropriations except where the Proclamation specified, and that the Monument shall be the dominant reservation.

Scientific Advisory Board and Existing Advisories

The 2001 Presidential Proclamation required the Secretary of Agriculture to appoint a Scientific Advisory Board (SAB) to assist in developing the monument management plan. The board was convened as described above, and submitted 28 advisories during the planning process from 2002–2004.

Some of the advisories were specific to the draft EIS while others were more far reaching. As this new monument planning process was initiated, a number of people requested that a new SAB be convened. As a first step to determine whether a new SAB is necessary, the Forest Service offered a commenting opportunity on the existing scientific advisories concurrent with the commenting opportunity on the Proclamation from July through August 2008. Only those advisories that were not directed at the 2002 draft EIS were included. Several people commented on the advisories.

The Forest Supervisor determined that a number of the existing scientific advisories are still relevant for the new monument plan. She found the public comments on whether or how an additional Scientific Advisory Board would be empanelled merit further study.

Purpose and Need for Action

The Presidential Proclamation establishing the Giant Sequoia National Monument (Monument) required preparation of a management plan. The required plan will amend the existing 1988 Sequoia National Forest Land and Resource Management Plan (1988 Forest Plan) as amended by the 1991 Kings River Wild and Scenic River, and Special Management Area Implementation Plan and the 2001 Sierra Nevada Forest Plan Amendment (2001 SNFPA). The Proclamation focused on certain resources and uses in establishing the Monument so the proposed plan amendment will also focus on those areas in implementing the Proclamation.

The Monument Management Plan may also incorporate the management direction provided by the 1990 Sequoia National Forest Land Management Plan Mediated Settlement Agreement (MSA), and the 2004 Sierra Nevada Forest Plan Amendment Supplemental Environmental Impact Statement (2004 SNFPA SEIS), as applicable, and to the extent that direction is consistent with the Proclamation. Although the Monument plan environmental impact statement (EIS) must consider these other sources of direction, the plan is not constrained by the requirements prescribed in these documents. The plan will be informed by the best available science and will be based on a thorough review of relevant scientific information and practical experience, per the Proclamation and planning direction, resulting in a plan which could be substantially different from current management direction.

The purpose and need of this management plan is to establish management direction for the land and resources within the Giant Sequoia National Monument in order to protect the Objects of Interest (as described below), while providing key resources and opportunities for public use within the Monument. Although many valuable Objects of Interest are identified, it was also clear in the Proclamation that the major purpose of the monument is to protect and maintain the giant sequoia groves and the rare giants within their unique and natural habitat.

The Monument management plan will describe a long-term vision and the strategic management direction to guide management activities that move resources toward the desired conditions. This Monument plan will define the parameters (limits) for management activities, and offer the flexibility to adapt project-level decisions to

accommodate rapidly changing resource conditions.

The Proclamation states that the monument plan shall:

Establish a transportation plan that provides for visitor enjoyment, and understanding about the scientific and historical objects consistent with their protection. (65 FR 24098).

The Proclamation did not specifically state, but implied the following needs in protecting Objects of Interest in the Monument:

(A) Provide for survival of mature and regeneration of young sequoias to assure the continued existence of this species. Consider the effects of disturbance and climate change on the regeneration, range and distribution of sequoias. (65 FR 24095).

(B) Restore the ecological processes and attributes that may be altered due to a century of fire suppression and large-scale logging, so that forest resiliency to large-scale wildfire and other potentially catastrophic events is improved (65 FR 24095–24096),

(C) Provide opportunities for scientific study of the Objects of Interest (such as biologists, geologists, paleontologists, archaeologists and historians) (65 FR 24095–24097).

The Objects of Interest were generally identified in the Proclamation, with the requirement that the management plan would provide direction for their proper care. Through public and agency dialogue the Objects of Interest have been determined to be a mix of specific individuals/locations (*i.e.* specific caverns or named sequoias) and broad ecosystem processes (*i.e.* sequoia groves and associated watersheds). The following are the Objects of Interest that will be considered for protection under this Giant Sequoia National Monument Management Plan:

- The ecosystems and outstanding landscapes within the Monument that surround the sequoia groves, including the interconnected vegetation types;
- The naturally occurring giant sequoia groves and associated ecosystems, rare giant trees, and other rare and endemic plant species including the Springville clarkia, etc.;
- The diverse array of rare animal species include the Pacific fisher, great gray owl, American marten, northern goshawk, peregrine falcon, California spotted owl, California condor, several rare amphibians and western pond turtle;
- The paleontological resources in the meadow sediments, giant sequoia tree rings, and other vegetation that have recorded the ecological changes including fire regimes, volcanism, vegetation and climate over the millennia;
- The limestone caverns and other geologic features including granite domes, spires, geothermally produced hot springs and soda springs, and the mix of glacial and river carved gorges;
- Cultural resources, both historic and prehistoric, provide a record of human adaptation to climate change and other influences, including land use patterns, in shaping ecosystems over the past 12,000 years.

The Presidential Proclamation creates a national monument recognizing and protecting forever its unique resources. The Proclamation also clearly identifies opportunities for scientific research, interpretation, recreation, and the need for a transportation plan. We are committed to preparing a management plan that is responsive to these needs and opportunities and that protects and restores the objects of interest as identified in the Proclamation.

Proposed Action

Desired Conditions and New Objectives

The desired conditions are broad, overarching descriptions of management goals and objectives to address the purpose and need to protect the Objects of Interest while providing key resources and opportunities for public use within the Monument. The 1988 Forest Plan and the 2001 SNFPA provide desired condition goals and objectives for a number of resources in the monument. Much of this direction is relevant for use in managing the Giant Sequoia National Monument. However, there is a subset of desired conditions and associated management direction that needs to be amended to manage the monument in accordance with the Proclamation.

In response to the Proclamation, the desired conditions discussed here are focused on the resources for which the Giant Sequoia National Monument Management Plan would amend or otherwise alter the current direction provided in the 1988 Forest Plan, as amended by the 2001 SNFPA. The desired conditions and associated management direction expected to be altered from current management direction includes:

- Shifts in vegetation management direction (management prescriptions), mainly regarding sequoias and oak habitat;
- Shifts in fuels management, mainly regarding sequoia groves;
- Provide resource management direction that is more responsive to new scientific data;
- Greater emphasis on paleontological and cave resources;
- Greater emphasis on selected cultural resource types and research questions;
- Greater emphasis on place-based recreation and public access; and
- Greater emphasis on partnerships and research opportunities.

The desired conditions and resultant monument management goals are governed by the 2000 Presidential Proclamation establishing the Giant Sequoia National Monument; and, as applicable, informed by the 1988 Forest Plan; the 1990 MSA; the applicable advisories from the Scientific Advisory Board; [1] and the 2001 and/or 2004 SNFPA.

The desired conditions are also informed by the public comments regarding the original 2004 Giant Sequoia National Monument Management Plan, and the commenting opportunity on the Presidential Proclamation and scientific advisories from July 2 through August 31, 2008.

The desired conditions are described in the context of protecting the Objects of Interest, and/or providing opportunities for public use.

A. Vegetation Including Sequoia Groves

The Proclamation stated that ''No portion of the monument shall be considered to be suited for timber production, and no part of the monument shall be used in a calculation or provision of sustained yield of timber from the Sequoia National Forest.'' (65 FR 24097). The desired conditions for vegetation within the Monument under the Proclamation will amend portions of the current direction for vegetation management. The 1988 Forest Plan provided two goals for timber resources: (1) Increase total timber (and wood fiber) supply where cost effective, and (2) maintain and enhance giant sequoias to increase recreation use and interpretive opportunities. The Monument plan will amend the first goal and its associated management prescriptions per Proclamation direction to remove the Monument from the timber land base. The second goal of the 1988 Forest Plan is consistent with the Proclamation's goal to ''provide for and encourage continued public and recreational access and use consistent with the purposes of the monument.'' (65 FR 24097) In addition, the 1988 Forest Plan provided specific management direction for giant sequoias, about which the 1990 MSA recommended several changes to

[1] Several advisories were specific to the 2002 Draft Environmental Impact Statement for the Giant Sequoia National Monument Management Plan and are therefore not necessarily applicable to this current Draft EIS.

establish grove boundaries and prevent logging in the groves to help preserve [2] and protect [3] them.

The desired condition for the monument vegetation is a variable distribution over space and time of a variety of species, sizes, and ages that are in balance with climate and other ecological conditions, which addresses the range of natural variability as determined by the best available science. The resultant combinations and ranges of ecosystem structures will provide a diverse habitat for biological Objects of Interest, recreation opportunities, and forest ecosystems able to regenerate and to survive drought, insects, disease, and large wildfires.

Objects of Interest are protected from large scale disturbances and vegetation type conversions. Under the Proclamation, ''Removal of trees, except for personal use fuel wood, from within the Monument area may take place only if clearly needed for ecological restoration and maintenance or public safety.'' (65 FR 24097). Consistent with this direction, the Forest will develop standards and guidelines to encourage forest stand disturbances at the appropriate scale and severity to meet other objectives such as safety, fuels, and wildlife management. The vegetation diversity may promote ladder fuels and down woody debris in one area, and giant sequoia regeneration and reduced fuels in another area.

More specifically, the desired conditions in giant sequoia groves will be a balance of forest disturbances, fuel loading, ladder fuels, and burn frequencies that will provide adequate conditions for sequoia regeneration. The desired habitat and processes will be adequate to protect some sequoia regeneration, most large sequoias, and all mature sequoias.

The 1990 MSA also recommended alterations to much of the grazing management direction for oak and chaparral vegetation areas. Portions of this direction have been included in the 2001 SNFPA direction for grazing in oak woodlands. However, there are still portions of the MSA direction regarding grazing management in oak and chaparral habitats that will be considered in the environmental analysis, and may be addressed in the monument plan.

The desired conditions of vegetation within oak grassland grazing allotments are healthy large oak trees capable of producing acorns and adequate regeneration and protection of oaks to assure long term survival of the species.

B. Fuels

Fire, whether natural or human caused, has been a key process in reducing the surface, ladder, and crown fuels that reduce susceptibility to the adverse effects of severe wildfires. Many ecosystems within and adjacent to the monument have excessive fuels accumulation due to years of fire exclusion. These fuels have built up at various rates depending on conditions and past treatments.

The existing direction under the 2001 SNFPA locates fuel treatments across broad landscapes that are linked to support one another so that the spread of wildland fire is interrupted and its intensity reduced. Continued use of these strategies in the Monument are intended to protect the resources including life, property, and sensitive resources, such as the giant sequoias, wildlife, cultural resources, and riparian areas. The 1990 MSA recommended fuels inventories and fuel load reduction plans for the groves, which will be considered in the development of alternatives and in the environmental analysis for the monument plan.

The desired condition for fuels in the Monument is to establish and maintain lower, manageable levels of flammable materials, especially at the surface and understory layers using frequent fire return intervals. Safer, manageable fuels are defined as those which pose low risk for large, catastrophic fires and include a highly diverse vegetation mosaic of age classes, tree sizes, and species composition. This will also contribute to protecting the objects of interest and will help maintain sustainable environmental, social, and economic benefits (*i.e.*, effects to tourism).

Additional direction provided in the 2001 Sierra Nevada Forest Plan Amendment sets the highest priority for fuel reduction activities in the urban wildland intermix zone (WUI). These fuel reduction treatments are to protect human communities from wildland fires as well as minimize the spread of fires that might originate in urban areas. The goal is for fire suppression capabilities to be enhanced by modified fire behavior inside the zone (USDA Forest Service, January 2001, Record of Decision, page 9). The desired condition for WUI within the Monument would follow the 2001 SNFPA guidelines to focus fuel reduction treatments in developed areas within the WUI zones.

C. Habitat Management for Rare and Endemic Species

The GSNM and surrounding Sequoia National Forest provide habitat for a number of rare plant and animal species. The Proclamation states: ''The great elevational range of the monument embraces a number of climatic zones, providing habitats for an extraordinary diversity of plant species and communities. The monument is rich in rare plants and is home to more than 200 plant species endemic to the southern Sierra Nevada mountain range.'' The desired condition is that lands within the monument continue to provide a diverse range of habitats. Riparian areas, montane meadows, and late successional forest are areas of particular concern.

Lands within the GSNM account for nearly one quarter of the Southern Sierra Fisher Conservation Area designated under the 2001 SNFPA. The Southern Sierra Fisher Conservation Area is a mapped land allocation encompassing the known occupied range of the Pacific fisher in the Sierra Nevada. The Monument management plan may update or add to the management standards and guidelines based on current scientific research and modeling from the Conservation Biology Institute (CBI) and others regarding fishers.

Current management direction provided by the 2001 SNFPA for California spotted owl, northern goshawks and great gray owls will continue unaltered within the monument. The 2001 SNFPA designated standards and guidelines for conserving willow flycatchers and designated sites of emphasis habitats, based on consistent monitoring of known willow flycatcher sites. Five of these sites occur within the GSNM, though monitoring resulted in no willow flycatcher detections since regular monitoring began in 2001. The management direction provided by the 2001 SNFPA is expected to continue to be used in the monument.

The 2001 SNFPA was intended to provide regionally consistent direction to address aquatic, riparian, and meadow ecosystems identified as the most altered and impaired habitats in the Sierra Nevada. In addition, many aquatic and riparian-dependent species were found to be at risk of extirpation. Foothill and mountain yellow-legged frogs, several slender salamander species, and western pond turtles have

[2] Preserve is defined in terms of the sequoia groves by allowing ecological processes, or equivalents thereof, to maintain the dynamic of forest structure and function (Piirto and Rogers, An Ecological Foundation for Management of National Forest Giant Sequoia Ecosystems, 1999).

[3] Protect is defined in terms of sequoia groves as protecting the naturally occurring goves from events that are contrary to or disruptive of natural ecological processes. Protect cultural artifacts, and ususual biological and physical features within groves from agents that could destroy them or accelerate their natural rate fo deterioration.

suitable habitat in riparian areas in the monument. The Aquatic Management Strategy (AMS) for the 2001 SNFPA established Riparian Conservation Objectives for Riparian Conservation Areas (RCAs) and Critical Aquatic Refuges (CARs). Portions of four CARs are located within the GSNM. The management direction provided by the 2001 SNFPA is expected to continue to be used in the monument.

The 1988 Forest Plan and 1990 MSA provide direction for the management of the California condor. Forest Plan direction specifies that management is to be congruent with the California Condor Recovery Plan, and identifies several historic use areas that are to be managed for the benefit and protection of the condor. These include the Starvation Grove historic nest site and the Lion Ridge roost area. The MSA recommended designating Wildlife Habitat Management Areas and other guidance, which will be considered in the development of alternatives and in the environmental analysis for the monument plan.

D. Watershed Resources

The 2001 SNFPA amended the 1988 Forest Plan and provided direction on management of watersheds. The 1990 MSA also includes direction for watershed management including establishing Streamside Management Zones. The recommended management direction from the 1990 MSA regarding watershed resources will be considered in the development of alternatives and in the environmental analysis for the monument plan.

The desired condition is for hydrologic functions to operate in a natural role within watersheds while resource management activities sustain human needs and uses in the monument. Restoration of ecological process is promoted through repair of previously harmed areas, and fostering a return to natural conditions wherever possible.

E. Geological and Soil Resources

The Proclamation describes caves and other special geologic resources as: ''The monument is dominated by granitic rocks, most noticeably as domes and spires in areas such as the Needles. The magnificent Kern Canyon forms the eastern boundary of the monument's southern unit * * * Particularly in the northern unit of the monument, limestone outcrops, remnants of an ancient seabed, are noted for their caves.''

The desired condition is for ecological functions to operate in a natural role across geologic features of the Monument while resource management activities sustain human needs and uses. Geologic resource management may be focused on (1) geologic features (caves, domes, hot springs, etc.), (2) designating geological special interest areas (caves, hot springs, etc.), (3) identifying and minimizing potential geologic hazards, (4) maintaining groundwater, (5) protecting paleontological resources, and (6) management of mineral resources, ''lands within the boundaries of this monument are hereby appropriated and withdrawn from entry, location, selection, sale, leasing, or other disposition under the public land laws including, but not limited to, withdrawal from locating, entry, and patent under the mining laws and from disposition under all laws relating to mineral and geothermal leasing.'' (Proclamation 7295, **Federal Register**, Vol. 65, No. 80, 4/25/2000, p. 24097). The Proclamation removed the Monument lands from new mineral extraction so the Monument plan will amend the Forest Plan to reflect this direction.

In addition, the 1990 MSA recommended direction regarding soil quality standards and associated monitoring. The 2001 SNFPA incorporated the Pacific Southwest Regional Soil Quality management direction into the amendment. Whether the 2001 SNFPA adequately addressed the 1990 MSA recommendations has yet to be determined.

F. Paleontological Resources

According to the Proclamation, the Monument holds unique paleontological resources (*i.e.*, life of past geologic periods found in the fossil record of plants and animals) documenting tens of thousands of years of ecosystem change. The Proclamation goes on to state, ''Subfossil vegetation entombed within ancient woodrat middens in these caves has provided the only direct evidence of where giant sequoias grew during the Pleistocene era, and documents substantial vegetation changes over the last 50,000 or more years. Vertebrate fossils also have been found within the middens.'' In addition, giant sequoias hold within their tree rings multi-millennial records of past environmental changes such as climate, fire regimes, and consequent forest response. The desired condition is to manage the paleontological resources to retain the components providing the fossil record throughout the monument.

G. Cultural Resources

The Proclamation states: ''During the past 8,000 years, Native American peoples of the Sierra Nevada have lived by hunting and fishing, gathering, and trading with other people throughout the region. Archaeological sites such as lithic scatters, food-processing sites, rock shelters, village sites, petroglyphs, and pictographs are found in the monument. These sites have the potential to shed light on the roles of prehistoric peoples, including the role they played in shaping the ecosystems on which they depended'' and ''One of the earliest recorded references to giant sequoias is found in the notes of the Walker Expedition of 1833, which described ''trees of the redwood species, incredibly large * * *.'' The world became aware of giant sequoias when sections of the massive trees were transported east and displayed as curiosities for eastern audiences. The 1988 Forest Plan and several laws direct the management and protection measures for cultural resources.

The monument currently has over 900 recorded archaeological sites. These sites are the physical remains of human occupation over the last 9,000 years and range from small-scale obsidian flake scatters to large-scale complex Native American village sites occupied for thousands of years. Historic sites chronicle some of the earliest Euro-American exploration, settlement, and development of the southern Sierra Nevada. Cultural resources provide information about the past that was never written down. A greater understanding of these resources can lead to a greater understanding of human environmental interactions. These interactions include how humans reacted to large-scale climate change; how humans manipulated vegetation on the smaller scale of food and material use by individual families, and on the larger scale of Native American burning and Euro-American logging. Cultural resources provide physical evidence of human land use patterns and can provide a greater understanding of culture change.

In addition to the physical remains, the oral histories, ethnographic studies, and continuation of traditional practices contribute to our understanding of people who have both new and long-term cultural connections to the Monument. The preservation and interpretation of cultural resources not only provides opportunities for visitors to explore, enjoy, and learn about the diversity of cultures that have lived in and visited the Monument; but also their own cultural heritage. The desired condition for the Monument is to place greater management emphasis on the rich cultural resources through

protection, research, and public education.

H. Human Use and Socioeconomics

The Proclamation describes human use of the Monument as follows: ''The plan will provide for and encourage continued public and recreational access and use consistent with the purposes of the monument.'' People of all ages, races and backgrounds, whether from local, rural or metropolitan communities would be encouraged to learn about and visit the Monument. The Monument would serve as a foundation of our commonality and interdependence.

The Monument will be managed cost effectively. Research would be conducted regarding human use and socioeconomics. As the Scientific Advisory Board recommended: ''The Plan should take into account substantial increases in visitor use and exploit opportunities for collaboration with nearby communities and businesses plus the National Park[s] * * * [It] needs to include a plan to develop good quantitative and qualitative information on visitor use, activities undertaken, and enjoyment of proposed interpretive programs and facilities to comply with the Presidential Proclamation (Advisories XVII and XIX).''

Demand for more specialized recreation (often provided by outfitters and guides, such as mountain biking and rock climbing) is increasing and the diversity of specialized recreation is increasingly broad. Regional population growth is expected to lead to greater demand for existing and emerging recreation opportunities. Projected population growth in the United States and increasing tourism in this region, along with other factors, clearly contribute to increasing demand for recreation facilities and services throughout the Sierra Nevada, specifically in the monument.

Existing direction from the 1988 Forest Plan and 2001 SNFPA encourage diverse public access and use of the area in a safe manner. Management direction is in place to protect communities (including those within the monument) from wildfires, and to encourage economic opportunities for the gateway communities and communities in the Monument.

Interpretation and conservation education reflect scientifically-supported scholarship and research data, conveying clear messages regarding natural and cultural resources and multiple use. The unique qualities of the monument pique people's interest throughout the world. The monument not only provides a rich opportunity to connect people to the giant sequoias and monument, but also to the earth as a whole. The monument management plan has the potential, through the use of multi-media interpretation and educational programs, to develop stewardship of the resource, to ensure its present and future protection and to enhance public enjoyment of this unique place. Awareness of the history of the Monument, appreciation for its biological processes, learning about the people who used and continue to use the monument, and education about disruptive forces are all distinctive, yet interrelated pieces that should be integrated into the overall approach to use of the resource.

The 1988 Forest Plan and 2001 SNFPA provide management direction to be well-balanced with a wide variety of recreational activities in a well-managed environment, promoting appreciation of the opportunities and harmony among users. Current direction recommends that visitors will find a rich and varied range of recreational, educational, and social opportunities enhanced by giant sequoias and the surrounding ecosystems. Current direction also recommends that visitors will have the opportunity to recreate in a variety of settings, from primitive to highly developed areas. The 1988 Forest Plan also provides direction for public enjoyment to handle conflicts that do arise with timeliness and equilibrium, and to provide consistent and easy-to-read signage, and informational materials. Current management direction also promotes recreation use throughout the year.

The desired condition for the Monument is to further emphasize the existing management direction to provide wide and varied public use of monument resources and opportunities while protecting the sensitive resources and Objects of Interest. Within the Monument there would be more emphasis on establishing partnerships, providing people with a connection to place, and promoting a sense of stewardship. These partnerships would provide a wide spectrum of recreation experiences through a wide variety of providers, including the Forest Service, partners, permit holders, volunteers and other community entities. Partnerships would be developed to increase interpretive materials and programs for reaching larger segments of the general public and for educating the ''citizen steward.'' Management partnerships will continue with those tribes whose ecosystems and watershed are affected by activities that occur on National Forest System lands, as well as with those Native Americans without a land base who have the need, through the practice of their culture, for National Forest System lands.

The 1988 Forest Plan used some evaluation tools that have changed over time. The Visual Management System has changed to the Scenery Management System (SMS). The 1990 MSA recommended a number of changes to the Visual Quality Objectives, which will be considered during the evaluation under the SMS.

The MSA had several requirements for off-highway vehicle and other trail use, which may be affected by the Travel Management Rule (36 CFR Parts 212, 251, and 261: Travel Management; Land Uses; and Prohibitions;), and is clearly altered by the Proclamation (Proclamation 7295, **Federal Register**, Vol. 65, No. 80, 4/25/2000, p. 24098). How the Monument plan will amend the Forest Plan to clarify recreational road and trail use will be identified during the environmental analysis.

There are two proposals from the 1988 Forest Plan that will not be carried forward within the monument: Creation of downhill ski areas at Peppermint on the Western Divide Ranger District, or Mitchell-Maddox on the Hume Lake Ranger District.

There are no new objectives proposed at this time for Human Use, Socioeconomics, or Dispersed and Developed Recreation. All the suggested changes are to provide more focused guidelines to emphasize diverse public access, partnerships and place-based recreation opportunities.

I. Transportation System

The Proclamation tells us: ''The management plan shall contain a transportation plan for the monument that provides for visitor enjoyment and understanding about the scientific and historic objects in the monument, consistent with their protection. For the purposes of protecting the objects included in the monument, motorized vehicle use will be permitted only on designated roads, and non-motorized mechanized vehicle use will be permitted only on designated roads and trails, except for emergency or authorized administrative purposes or to provide access for persons with disabilities. No new roads or trails will be authorized within the monument except to further the purposes of the monument.''

The desired condition is that the road and trail system on the Monument protects the Objects of Interest, is safe, reflects appropriate access, considers the needs of other landowners, and meets public demand.

The existing management direction in the 1988 Forest Plan and the Travel Management Rule provides for a road system that is commensurate with the level of management activities occurring in the Monument, providing appropriate access to the objects of interest for their proper care, protection, and management. Public use, related to recreation, special use authorizations, and private land access, is an important, but secondary need and does not conflict with the proper care, protection, and management of the Objects of Interest. Current management direction requires that the road and trail system be sized and maintained to limit impacts to aquatic and terrestrial habitats. The Proclamation altered a portion of the existing direction by limiting motorized, mechanized vehicles to designated roads. The Monument will emphasize developing access points in coordination with gateway communities and other agencies to provide clear, welcoming entry into the Monument. The monument plan may also focus greater emphasis on providing access to the Objects of Interest, and providing more opportunities for traveling on loop trails or roads.

J. Scientific Study

The Proclamation describes the promise of science as follows: ''The rich and varied landscape of the Giant Sequoia National Monument holds a diverse array of scientific and historic resources * * *. The monument provides exemplary opportunities for biologists, geologists, paleontologists, archaeologists, and historians to study these objects * * *. These giant sequoia groves and the surrounding forest provide an excellent opportunity to understand the consequences of different approaches to forest restoration * * *. Outstanding opportunities exist for studying the consequences of different approaches to mitigating these conditions and restoring natural forest resilience * * *. Outstanding opportunities exist for studying forest resilience to large-scale logging and the consequences of different approaches to forest restoration.''

Under the 2001 SNFPA, the current direction is to use adaptive management. As stated in the 2001 SNFPA ROD (p.15), ''Adaptive management will allow the Forest Service to test new and innovative management techniques as part of formal research projects * * * allow for variances from the standards and guidelines in Appendix A to test hypotheses in a scientifically structured manner. Projects that seek variances from the standards and guidelines will be permitted if they are part of a formal adaptive management research project or administrative study done in conjunction with the Pacific Southwest Research Station or another recognized scientific research institution * * *. Investment in * * * adaptive management projects will allow us to gain more knowledge and adjust future management techniques based on that knowledge.''

The desired condition is to use the right balance between adaptability and accountability, being realistic about the Forest Service's monitoring and re-analysis capabilities. The desired condition is also to use the best available science in data, methodologies, and structure, specifically, to integrate various decision support systems.

The current direction to use adaptive management will be analyzed to determine whether to amend the direction for adaptive management in the Monument. The Monument plan would maintain options by continuing on-going cooperation, and develop additional joint research efforts with the scientific community, and cooperating agencies, to adaptively manage resources to continue to learn and refine approaches.

Possible Alternatives

Other alternatives will be developed based on significant issues identified during the scoping process for the environmental impact statement. All alternatives will need to address the purpose and need as described above, which reflects the 2000 Presidential Proclamation establishing Giant Sequoia National Monument. Alternatives being considered at this time include: (1) No Action, (2) Proposed Action, and other alternatives identified following scoping.

Responsible Official

Tina Terrell, Forest Supervisor, Sequoia National Forest, is the Responsible Official. As the Responsible Official, she will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service appeal regulations (36 CFR part 217).

Nature of Decision To Be Made

The decision to be made is whether to amend the 1988 Sequoia National Forest Land and Resource Management Plan as described in the proposed action to manage the Giant Sequoia National Monument, develop an alternative amendment that addresses the purpose and need, and responds to significant issues; or continue to manage the Giant Sequoia National Monument under the 1988 Forest Plan, as amended by the 2001 Sierra Nevada Forest Plan Amendment, and consistent with the Presidential Proclamation.

Scoping Process

The notice of intent initiates the scoping process, which guides the development of the environmental impact statement. Scoping began on this project in January 2008, and this notice extends the scoping period for the new Giant Sequoia National Monument Management Plan environmental impact statement.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior the close of the comment period and should clearly articulate the reviewers concerns and contentions. The submission of timely and specific comments can affect a reviewer's ability to participate in subsequent administrative appeal or judicial review.

Dated: March 12, 2009.

Tina J. Terrell,

Forest Supervisor, Sequoia National Forest, USDA Forest Service.

[FR Doc. E9–5809 Filed 3–17–09; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of New Fee Sites; Federal Lands Recreation Enhancement Act (Title VIII, Pub. L. 108–447)

AGENCY: Stanislaus National Forest, USDA Forest Service.

ACTION: Notice of new fee sites.

SUMMARY: The Stanislaus National Forest is proposing to charge new fees at five existing campgrounds. Fees are assessed based on the level of amenities and services provided, cost of operation and maintenance, market assessment, and public comment. The fees listed are only proposed and will be determined upon further analysis and public comment. Funds from fees would be used for the continued operation and maintenance and improvement of these recreation sites. New fees are proposed at Pacific Valley ($10), Union ($8), Utica ($8), Lumsden ($8), and South Fork ($8) Campgrounds. Improvements have been made at many of these campgrounds, or are planned, including installing new fire rings, picnic tables, accessible trails,

and new toilets. These actions address sanitation and safety concerns, and improve deteriorating resource conditions and recreation experiences. A market analysis has been completed and indicated that the proposed fees are reasonable and typical of similar sites in the local area.

DATES: The proposed new fees may be implemented after August 2009.

ADDRESSES: Forest Supervisor, Stanislaus National Forest, 19777 Greenley Road, Sonora, CA 95370.

FOR FURTHER INFORMATION CONTACT: Brian Kermeen, Recreation Fee Coordinator, 209–532–3671 x316

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub.L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established. Once public involvement is complete the proposed new campground fees will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation.

Dated: February 19, 2009.

Susan Skalski,

Stanislaus National Forest Supervisor.

[FR Doc. E9–5642 Filed 3–17–09; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Alabama Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the Alabama Advisory Committee to the Commission will convene by conference call at 2 p.m. and adjourn at approximately 3 p.m. on Tuesday, April 7, 2009. The purpose of this meeting is to conduct planning on the Committee's community forum on the ''Civil Rights Implications of Alabama's Eminent Domain Policies and Practices.''

This meeting is available to the public through the following toll-free call-in number: (866) 364–7584, conference call access code number 89288526. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and contact name Farella E. Robinson.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Corrine Sanders of the Central Regional Office and TTY/TDD telephone number, by 4 p.m. on March 31, 2009.

Members of the public are entitled to submit written comments. The address is U.S. Commission on Civil Rights, Central Regional Office, 400 State Avenue, Suite 908, Kansas City, Kansas 66101. Persons wishing to e-mail their comments, present their comments at the meeting, or who desire additional information should contact Farella E. Robinson, Director, at *frobinson@usccr.gov.* Records generated by this meeting may be inspected and reproduced at the Central Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Central Regional Office at the above e-mail or street address.

The meeting will be conducted pursuant to the rules and regulations of the Commission and FACA.

Dated in Washington, DC, March 13, 2009.

Christopher Byrnes,

Chief, Regional Programs Coordination Unit.

[FR Doc. E9–5854 Filed 3–17–09; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before April 7, 2009. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. at the U.S. Department of Commerce in Room 3720.

Docket Number: 09–004. Applicant: William S. Middleton VA Hospital, 2500 Overlook Terrace, Madison, WI 53705. Instrument: Electron Microscope. Manufacturer: Hitachi High Technologies Corporation, Japan. Intended Use: The instrument will be used to examine human tissues with significant pathological changes and experimentally manipulated animal tissues. Justification for Duty–Free Entry: No U.S.-made instruments of same general category. Application accepted by Commissioner of Customs: February 13, 2009.

Docket Number: 09–006. Applicant: Bergen County Technical Schools/Bergen County Academies, 200 Hackensack Avenue, Hackensack, NJ 07601. Instrument: Transmission Electron Microscope. Manufacturer: JEOL Ltd., Japan. Intended Use: The instrument will be used to explore nanoscale materials and phenomena. Justification for Duty–Free Entry: No comparable instrument manufactured domestically. Application accepted by Commissioner of Customs: February 26, 2009.

Dated: March 11, 2009.

Chris Cassel,

Acting Director,

IA Subsidies Enforcement Office.

[FR Doc. E9–5893 Filed 3–17–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–802]

Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Initiation of Changed Circumstances Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''Department'') has received information sufficient to warrant initiation of five changed circumstances reviews of the antidumping duty order on certain frozen warmwater shrimp from the Socialist Republic of Vietnam (''Vietnam'').

DATES: *Effective Date:* March 18, 2009.

FOR FURTHER INFORMATION CONTACT: Scot Fullerton or Jerry Huang, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230; telephone:

202–482–1386 or 202–482–4047, respectively.

SUPPLEMENTARY INFORMATION:

Background

The antidumping duty order for certain frozen warmwater shrimp from Vietnam was published on February 1, 2005. *See Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam,* 70 FR 5152 (February 1, 2005) (''*Order*'').[1] As part of the Order, Bac Lieu Fisheries Company Limited (''Bac Lieu Limited''), Cai Doi Vam Seafood Import-Export Company (Cadovimex) (''Cadovimex''), Soc Trang Aquatic Products and General Import Export Company (''STAPIMEX''), Thuan Phuoc Seafoods and Trading Corporation (''Thuan Phuoc SOE''), and UTXI Aquatic Products Processing Company (''UTXI'') (collectively, ''Original Companies'') each received antidumping duty cash deposit rates of 4.57 percent. *Id.* In the first administrative review, the Department initiated a review on each of the Original Companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Administrative Reviews,* 71 FR 17077 (April 5, 2006). However, the reviews of Cadovimex, STAPIMEX, Thuan Phuoc SOE, and UTXI were subsequently rescinded. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Partial Rescission of the First Administrative Review,* 71 FR 42628, 42629 (July 27, 2006). As part of the final results of the first administrative review, Bac Lieu Limited received an antidumping duty cash deposit rate of 4.57 percent. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of the First Antidumping Duty Administrative Review and First New Shipper Review*, 72 FR 52052, 52054 (September 12, 2007). As part of the final results of the second administrative review, in which Cadovimex, STAPIMEX, Thuan Phuoc SOE, and UTXI were each reviewed, each of these companies received antidumping duty cash deposit rates of 4.57 percent. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 73 FR 52273, 52275–52276 (September 9, 2008). Bac Lieu Limited did not participate in the second administrative review.

On January 26, 2009, Soc Trang Seafood Joint Stock Company (''STAPIMEX JSC'') filed a submission requesting that the Department conduct a changed circumstances review of the antidumping duty order on certain frozen warmwater shrimp from Vietnam and requesting that the Department find that STAPIMEX JSC is the successor-in-interest to STAPIMEX.[2] On January 27, 2009, UTXI Aquatic Products Processing Corporation (''UTXI Corp.'') filed a submission requesting that the Department conduct a changed circumstances review of the antidumping duty order on certain frozen warmwater shrimp from Vietnam and requesting that the Department find that UTXI Corp. is the successor-in-interest to UTXI.[3] On February 4, 2009, Cadovimex Seafood Import-Export and Processing Joint Stock Company (''Cadovimex-Vietnam'') filed a submission requesting that the Department conduct a changed circumstances review of the antidumping duty order on certain frozen warmwater shrimp from Vietnam and requesting that the Department find that Cadovimex-Vietnam is the successor-in-interest to Cadovimex.[4] On February 5, 2009, Thuan Phuoc Seafoods and Trading Corporation (''Thuan Phuoc JSC'') filed a submission requesting that the Department conduct a changed circumstances review of the antidumping duty order on certain frozen warmwater shrimp from Vietnam and requesting that the Department find that Thuan Phuoc JSC is the successor-in-interest to Thuan Phuoc SOE.[5] On February 6, 2009, Bac Lieu Fisheries Joint Stock Company (''Bac Lieu'') filed a submission requesting that the Department conduct a changed circumstances review of the antidumping duty order on certain frozen warmwater shrimp from Vietnam and requesting that the Department find that Bac Lieu is the successor-in-interest to Bac Lieu Limited.[6]

In their submissions, Bac Lieu, Cadovimex-Vietnam, STAPIMEX JSC, Thuan Phuoc JSC, and UTXI Corp. (collectively ''CCR Companies'') each provided information regarding the events leading to each company's transition from the Original Companies. Additionally, each of the CCR Companies provided documentation relating to its change from either an SOE to a joint stock company (''JSC'') (*i.e.*, Cadovimex-Vietnam, STAPIMEX JSC, and Thuan Phuoc JSC) or from a limited liability company to a JSC (*i.e.*, Bac Lieu and UTXI Corp.). In addition, all the CCR Companies provided documentation comparing their current ownership structures and management, organizational structures, customer bases, accounting processes, supplier relationships, and products to those of their respective Original Companies. As part of their submissions, the CCR Companies requested that the Department conduct expedited reviews.

Scope of Order

The scope of the order includes certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,[7] deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of the order, regardless of definitions in the Harmonized Tariff Schedule of the United States (''HTSUS''), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the *Penaeidae* family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannemei*), banana prawn (*Penaeus merguiensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus*

[1] Due to a typographical error, the Order incorrectly lists the effective date as February 1, 2004. The actual effective date is the date of publication, *i.e.*, February 1, 2005.

[2] *See* STAPIMEX JSC's submission to the Department regarding Certain Frozen Warmwater Shrimp from Vietnam: Request for Changed Circumstances Review, (Case No. A–552–802) (January 26, 2009).

[3] *See* UTXI Corp.'s submission to the Department regarding Certain Frozen Warmwater Shrimp from Vietnam: Request for Changed Circumstances Review, (Case No. A–552–802) (January 27, 2009).

[4] *See* Cadovimex-Vietnam's submission to the Department regarding Certain Frozen Warmwater Shrimp from Vietnam: Request for Changed Circumstances Review, (Case No. A–552–802) (February 4, 2009).

[5] *See* Thuan Phuoc JSC's submission to the Department regarding Certain Frozen Warmwater Shrimp from Vietnam: Request for Changed Circumstances Review, (Case No. A–552–802) (February 5, 2009).

[6] *See* Bac Lieu's submission to the Department regarding Certain Frozen Warmwater Shrimp from Vietnam: Request for Changed Circumstances Review, (Case No. A–552–802) (February 6, 2009).

[7] ''Tails'' in this context means the tail fan, which includes the telson and the uropods.

notialis), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of the order. In addition, food preparations, which are not ''prepared meals,'' that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of the order.

Excluded from the scope are: (1) Breaded shrimp and prawns (HTS subheading 1605.20.10.20); (2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (HTS subheadings 0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (HTS subheading 1605.20.05.10); (5) dried shrimp and prawns; (6) canned warmwater shrimp and prawns (HTS subheading 1605.20.10.40); (7) certain dusted shrimp; and (8) certain battered shrimp. Dusted shrimp is a shrimp-based product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a ''dusting'' layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and (5) that is subjected to IQF freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by the order are currently classified under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of the order is dispositive.

Initiation of Changed Circumstances Reviews

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (''Act''), the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from an interested party for a review of, an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order. The Department has determined that the information submitted by the CCR Companies demonstrates changed circumstances sufficient to warrant a review. *See* 19 CFR 351.216(d). Additionally, section 751(b)(4) of the Act states that the Department shall not conduct a review less than 24 months after the date of publication of the less-than-fair-value determination, in the absence of good cause. As noted above, all the CCR Companies filed their requests for changed circumstances reviews more than 24 months after the publication of the Order.

In accordance with the above-referenced regulations, the Department is initiating changed circumstances reviews to determine whether the CCR Companies are the successors-in-interest to the Original Companies. In determining whether one company is the successor to another for purposes of applying the antidumping duty law, the Department examines a number of factors including, but not limited to, changes in: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See, e.g., Certain Cut-to-Length Carbon Steel Plate from Romania: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review,* 70 FR 22847 (May 3, 2005). While no one or several of these factors will necessarily provide a dispositive indication of succession, the Department will generally consider one company to be a successor to another company if its resulting operation is similar to that of its predecessor. *See Notice of Initiation of Antidumping Duty Changed Circumstances Review: Certain Forged Stainless Steel Flanges from India,* 71 FR 327 (January 4, 2006). Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the prior company, the Department will assign the new company the cash deposit rate of its predecessor.

Due to the complexity and breadth of analysis required for five separate changed circumstance reviews, it is not practical to conduct expedited changed circumstance reviews. Therefore, we have not issued the preliminary results of these changed circumstance reviews at this time. The Department will publish in the **Federal Register** a notice of preliminary results of the antidumping duty changed circumstances reviews, in accordance with 19 CFR 351.221(b)(4) and 19 CFR 351.221(c)(3)(i). This notice will set forth the factual and legal conclusions upon which our preliminary results are based and a description of any action proposed based on those results. Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results of the reviews. In accordance with 19 CFR 351.216(e), the Department will issue the final results of its antidumping duty changed circumstances reviews not later than 270 days after the date on which the reviews are initiated, or within 45 days if all parties to the proceeding agree to the outcome of the preliminary findings, and will publish these results in the **Federal Register**.

This notice is published in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216 and 351.221(c)(3).

Dated: March 12, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–5875 Filed 3–17–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XO16

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold meetings of its Pelagics Plan Team (PPT), in Honolulu, HI, to discuss fishery issues and develop recommendations for future management.

DATES: The meeting of the PPT will be held on April 29–May 1, 2009, from 8:30 a.m. to 5 p.m. each day.

ADDRESSES: The meeting will be held at the Council Office Conference Room,

Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813; telephone: (808) 522–8220.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The PPT will meet between April 29 and May 1, 2009 at the Council Conference Room to discuss the following agenda items:

Wednesday, April 29, 2009, 8.30 a.m.

1. Introduction
2. Annual Report review
a. Review 2008 Annual Report modules and recommendations
i. CNMI
ii. American Samoa
iii. Guam
iv. Hawaii
v. International
vi. Recreational
b. 2008 Annual Report region wide recommendations

Thursday & Friday, April 30–May 1, 2009, 8.30 a.m.

3. Summary of current Fishery Management Plan amendment actions
4. Hawaii Swordfish Fishery Effort
5. Bigeye tuna quota
6. Conservation and Management Measures from Western and Central Pacific Fishery Commission
7. Analysis of mahimahi and ono catch data
8. Marine Mammal Advisory Committee Recommendations
9. Offshore handline fishery limited entry program
10. Recreational fisheries developments (Marine Recreational Fisheries Improvement Program)
11. Other business
12. Public comments
13. Pelagic Plan Team Recommendations

The order in which the agenda items are addressed may change. The PPT will meet as late as necessary to complete scheduled business.

Although non-emergency issues not contained in this agenda may come before the PPT for discussion, those issues may not be the subject of formal action during these meetings. Plan Team action will be restricted to those issues specifically listed in this document and any issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council(s intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: March 13, 2009.

Tracey L. Thompson,

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

[FR Doc. E9–5797 Filed 3–17–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XO08

Taking and Importing Marine Mammals; Navy Training and Research, Development, Testing, and Evaluation Activities Conducted within the Mariana Islands Range Complex

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

ACTION: Notice; receipt of application for letter of authorization; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) for authorization to take marine mammals incidental to military readiness training activities and research, development, testing and evaluation (RDT&E) to be conducted in the Mariana Islands Range Complex (MIRC) for the period beginning December 2009 and ending December 2014. Pursuant to the implementing regulations of the Marine Mammal Protection Act (MMPA), NMFS is announcing our receipt of the Navy's request for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the Navy's application and request.

DATES: Comments and information must be received no later than April 17, 2009.

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing email comments is *PR1.0648–XO08@noaa.gov*. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size.

FOR FURTHER INFORMATION CONTACT: Jolie Harrison, Office of Protected Resources, NMFS, (301) 713–2289, ext. 166.

SUPPLEMENTARY INFORMATION:

Availability

A copy of the Navy's application may be obtained by writing to the address specified above (See **ADDRESSES**), telephoning the contact listed above (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*. The Navy's Draft Environmental Impact Statement (DEIS) for MIRC was made available to the public on January 30, 2009, and may be viewed at *http://www.marianasrangecomplexeis.com/*. During the initial 45–day public comment period, the Navy hosted four public hearings.

Background

In the case of military readiness activities, sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) if certain findings are made and regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and that the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as:

> an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

With respect to military readiness activities, the MMPA defines ''harassment'' as:

> (i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A

Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

Summary of Request

In August 2008, NMFS received an application from the Navy requesting authorization to take individuals of 28 species of marine mammals (all cetaceans) incidental to upcoming training and RDT&E activities to be conducted in the MIRC over the course of 5 years. The Navy provided an addendum to the application in February 2009. NMFS subsequently requested additional information, which was received in March 2009. These training and RDT&E activities are classified as military readiness activities. The Navy states that these training activities may expose some of the marine mammals present in the area to sound from various active tactical sonar sources or to pressure from underwater detonations. The Navy requests authorization to take individuals of 28 species of cetaceans by Level B Harassment. Further, the Navy requests authorization to take 9 individual beaked whales (of any of the following species: Blainville's beaked whale, Cuvier's beaked whale, Ginkgo-toothed whale, Longman's beaked whale) and one pantropical spotted dolphin by serious injury or mortality over the course of the 5–year rule.

Specified Activities

In the application submitted to NMFS, the Navy requests authorization to take marine mammals incidental to conducting training events and RDT&E utilizing mid- and high frequency active sonar sources and explosive detonations. These sonar and explosive sources will be utilized during Anti-submarine Warfare (ASW) Tracking and Torpedo Exercises, ASW Major Exercises (Multi Strike Group Exercises, Joint Expeditionary Exercises, and others), Extended Echo Ranging and Improved Extended Echo Ranging (EER/IEER) events, Missile Exercises, Gunnery Exercises, Bombing Exercises, Sinking Exercises, and Demolitions. Table 1–3 in the application lists the activity types, the equipment and platforms involved, and the duration and potential locations of the activities.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the Navy's request (see **ADDRESSES**). All information, suggestions, and comments related to the Navy's MIRC request and NMFS' potential development and implementation of regulations governing the incidental taking of marine mammals by the Navy's MIRC activities will be considered by NMFS in developing, if appropriate, the most effective regulations governing the issuance of letters of authorization.

Dated: March 12, 2009.

P. Michael Payne,

Chief, Division of Permits, Conservation, and Education, Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9–5891 Filed 3–17–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Notice: Broadband Grant Programs Meetings

AGENCY: National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce.

ACTION: Notice of Meetings, Clarification.

SUMMARY: On February 24, 2009, the National Telecommunications and Information Administration (NTIA) published a Notice in the **Federal Register** announcing its intention to begin holding meetings on March 2, 2009, in connection with the broadband grant programs described in the Broadband Data Services Improvement Act, Public Law No. 110–385, and the American Recovery and Reinvestment Act of 2009 (Recovery Act), Public Law No. 111–5 (collectively, ''Broadband Grant Programs''). This Notice provides clarification regarding those meetings.

DATES: March 16, 2009.

ADDRESSES: U.S. Department of Commerce, National Telecommunications and Information Administration, 1401 Constitution Avenue, N.W., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Barbara Brown at (202) 482–4374 or bbrown@ntia.doc.gov.

SUPPLEMENTARY INFORMATION: On February 24, 2009, NTIA published a Notice announcing a joint public meeting with the U.S. Department of Agriculture (USDA) and the Federal Communications Commission (FCC) to discuss the Broadband Initiatives contained in the Recovery Act. *See* Joint Notice of Public Meeting, 74 Fed. Reg. 8914 (Feb. 27, 2009) (announcing a joint public meeting on March 10, 2009). At the same time, NTIA published a Notice announcing its intention to begin holding meetings on March 2, 2009 in response to numerous requests received from individuals and groups interested in the program. *See* Notice of Meetings, 74 Fed. Reg. 8233 (Feb. 24, 2009). This Notice explained the manner in which individuals and groups could request meetings and the treatment of such meetings as *ex parte* presentations. Since the publication of these Notices, NTIA has received over 2,500 requests for meetings from interested parties.

Subsequently, NTIA and USDA's Rural Utilities Service announced that the agencies would hold six public meetings on March 16, 17, 18, 19, 23, and 24, 2009, about the new broadband grants, loans, and loan guarantees funded by the Recovery Act and accept written comments about the programs through April 13, 2009. *See* Joint Request for Information and Notice of Public Meetings, 74 Fed. Reg. 10716 (March 12, 2009). These public meetings will be conducted as roundtables, will be open to the public, and also will be webcast. Transcripts and all written comments received also will be available. Participation in the public meetings and the filing of written comments is encouraged. For further information about these meetings and to submit and view written comments, please see NTIA's website at http://www.ntia.doc.gov/broadbandgrants/.

As a result of the overwhelming demand from interested parties for meetings and the expedited time frames in the Recovery Act for making the broadband grant, loan, and loan guarantee funds available, NTIA will not able to accommodate all meeting requests received. The agency, however, does reserve the right to schedule such *ex parte* meetings as necessary to fulfill the needs of the Broadband Grant Program. All other information provided in the Notice of Meetings remains unchanged.

Dated: March 13, 2009.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. E9–5838 Filed 3–13–09; 4:15 pm]

BILLING CODE 3510–60–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. Sec. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 565–2799 between 8:30 a.m. and 5 p.m. eastern time, Monday through Friday.

Currently, the Corporation is soliciting comments concerning its proposed renewal of its Disaster Response Database (DRD). The DRD is a data collection tool that allows the Corporation to collect information from its programs and grantees on disaster response activities across the country. This tool serves as a central repository of information on Corporation disaster response activities for reporting to the public.

Copies of the information collection request can be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by May 18, 2009.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) *By mail sent to:* Corporation for National and Community Service; Attention Phil Shaw, Emergency Management Coordinator, 9th Floor; 1201 New York Avenue, NW., Washington, DC 20525.

(2) By hand delivery or by courier to the Corporation's mailroom at Room 8100 at the mail address given in paragraph (1) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

(3) *By fax to:* (202) 606–3477, Attention Phil Shaw, Emergency Management Coordinator.

(4) Electronically through the Corporation's e-mail address system: *pshaw@cns.gov.*

FOR FURTHER INFORMATION CONTACT: Phil Shaw, (202) 606–6697, or by e-mail at *pshaw@cns.gov.*

SUPPLEMENTARY INFORMATION: The Corporation is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, 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 expected to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submissions of responses).

Background

The Corporation for National and Community Service regularly engages its national service programs and grantees to respond to disasters as a part of its mandate to promote community service and meet community needs. The great number of national service participants and variety of support offered necessitate a centralized reporting tool to track and measure resources dedicated to supporting communities recovering from disaster.

Current Action: The Corporation seeks to renew the data collection: CNCS Disaster Response Database (OMB control number 3015–0114) scheduled to expire on June 30th, 2009. The database is a Web-based system that permits programs and grantees to report contributions to disaster responses. The system will be updated to include a previously approved quantifiable accomplishment reporting module.

The current data collection can be found at *http://www.nationalservice.gov/relief/tbl_response/AddTbl_responsePage.aspx.*

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Disaster Relief Information Collection.

OMB Number: 3045–0114.

Agency Number: None.

Affected Public: Corporation for National and Community Service programs/grantees involved in disaster activities.

Total Respondents: 100.

Frequency: Every two weeks.

Average Time per Response: Averages 30 minutes.

Estimated Total Burden Hours: 50 Hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: March 12, 2009.

Kristin McSwain,

Chief of Program Operations.

[FR Doc. E9–5884 Filed 3–17–09; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Extension of Comment Period for the Draft Environmental Impact Statement/Overseas Environmental Impact Statement for the Northwest Training Range Complex

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: An amended notice of availability was published by the U.S. Environmental Protection Agency in the **Federal Register** (74 FR 8940) on February 27, 2009 for the Northwest Training Range Complex (NWTRC) Draft Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) extending the public comment period to March 11, 2009. This notice announces a further extension of the public comment period until April 13, 2009.

FOR FURTHER INFORMATION CONTACT: Mrs. Kimberly Kler, Naval Facilities Engineering Command Northwest, Attention: NWTRC EIS/OEIS, 1101 Tautog Circle, Suite 203, Silverdale, Washington, 98315–1101; or *http://www.NWTRangeComplexEIS.com.*

SUPPLEMENTARY INFORMATION: The public comment period on the NWTRC Draft EIS/OEIS will be extended until April 13, 2009. Comments may be submitted in writing to Naval Facilities Engineering Command Northwest, Attention: Mrs. Kimberly Kler—NWTRC EIS/OEIS, 1101 Tautog Circle, Suite 203, Silverdale, WA 98315–1101. In

addition, comments may be submitted online at *http://www.NWTRangeComplexEIS.com* during the comment period. All written comments must be postmarked by April 13, 2009, to ensure they become part of the official record. All comments will be addressed in the Final EIS/OEIS.

Copies of the Draft EIS/OEIS are available for public review at the following libraries:

1. Humboldt County Library, 1313 Third Street, Eureka, CA;
2. Jefferson County Rural Library, 620 Cedar Avenue, Port Hadlock, WA;
3. Kitsap Regional Library, 1301 Sylvan Way, Bremerton, WA;
4. Driftwood Public Library, 801 SW. Highway 101, Lincoln City, OR;
5. Newport Public Library, 35 NW. Ney Street, Newport, OR;
6. Tillamook County Library, 1716 3rd Street, Tillamook, OR;
7. Suislaw Public Library, 1460 9th Street, Florence, OR;
8. Oak Harbor Public Library, 1000 SE. Regatta Drive, Oak Harbor, WA;
9. Port Townsend Public Library, 1220 Lawrence St., Port Townsend, WA;
10. Timberland Regional Library, 420 Seventh Street, Hoquiam, WA.

The NWTRC Draft EIS/OEIS is also available for electronic public viewing at: *http://www.NWTRangeComplexEIS.com*.

Dated: March 13, 2009.

A.M. Vallandingham,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E9–5895 Filed 3–17–09; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507(j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by March 23, 2009.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Bridget Dooling, Desk Officer, Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.*, new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: March 10, 2009.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Elementary and Secondary Education

Type of Review: New.

Title: State Fiscal Stabilization Fund Grant Application.

Abstract: On February 17, 2009, the American Recovery and Reinvestment Act of 2009 (ARRA) became law. A major part of ARRA is the new State Fiscal Stabilization Fund (Stabilization) program. The program provides $53,600,000,000 to States to keep teachers in the classroom, prevent the cutting of valuable education programs, and help mitigate college tuition increases. Additionally, the Stabilization program will provide resources that States and districts may use to implement important education reforms, such as launching strategies that address inequities in the distribution of highly qualified teachers, building robust data systems that allow districts to better track student achievement, raising standards and strengthening student assessments, and turning around failing schools. We are requesting approval of the Stabilization program grant application so that State governors may apply for the first portion of these funds.

Additional Information: In order to provide immediate assistance to help alleviate the substantial budget shortfalls that States are facing, the Department is committed to providing 67 percent of each State's Stabilization allocation within a very short timeframe, necessitating emergency clearance of the Stabilization program application. The requested approval date for OMB approval is March 23. This formula grant program has two distinct portions—the Education Fund and the Government Services Fund. Specifically, the Department intends to award each State with 67 percent of the total amount that it is to receive under both the Education Fund and the Government Services Fund within two weeks of our receipt of a complete application.

Frequency: One time.

Affected Public: Business or other for-profit; State, Local or Tribal Gov't.

Reporting and Recordkeeping Hour Burden:

Responses: 52.

Burden Hours: 894.

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 3976. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address

ICDocketMgr@ed.gov or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E9–5837 Filed 3–17–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of International Regimes and Agreements; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Notice of proposed subsequent arrangement.

SUMMARY: This notice has been issued under the authority of Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed ''subsequent arrangement'' under the Agreement for Cooperation Between the United States of America and the Government of the Argentine Republic Concerning Peaceful Uses of Nuclear Energy and the Agreement Between the United States of America and Australia Concerning Peaceful Uses of Nuclear Energy.

This subsequent arrangement concerns the retransfer of 1.84 grams of uranium, 1.64 grams of which is in the isotope U–235, from the Comision Nacional De Energia Atomica (CNEA), Ezeiza, Argentina, to the Australian Nuclear Science and Technology Organization (ANSTO) in Lucas Heights, Australia. The material, which is currently in the form uranium ore concentrates (U3O8) and is located at CNEA's Instrumentation and Control Department, will be transferred to ANSTO for use at the Australian Replacement Research Reactor as internal sensitive material of five fission counters. CNEA originally obtained the material from the United States under a general license.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement is not inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: March 12, 2009.

For the Department of Energy.

Richard Goorevich,

Director, Office of International Regimes and Agreements.

[FR Doc. E9–5815 Filed 3–17–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP09–68–000]

Texas Eastern Transmission, LP; Notice of Application

March 11, 2009.

Take notice that on February 27, 2009, Texas Eastern Transmission, LP (Texas Eastern) 5400 Westheimer Court, Houston, Texas 77056–5310, filed an application in Docket No. CP09–68–000, pursuant to section 7(c) and 7(b) of the Natural Gas Act (NGA) and part 157 of the Commission's regulations, requesting a certificate of public convenience and necessity to construct and operate facilities to expand the capacity of its system by 395,000 dekatherms per day (Dth) from a supply point in Clarington, Ohio and by 60,000 Dth per day from the Oakford storage facility in Westmoreland County, Pennsylvania (TEMAX and TIME III Projects, respectively) to a proposed interconnect with Transcontinental Gas Pipe Line Company, LLC in York County, Pennsylvania via a proposed lateral from Texas Eastern's system in Lancaster County, Pennsylvania (Marietta Extension).

Specifically, Texas Eastern proposes a net increase of 84,433 horsepower (hp) at its existing Holbrook, Uniontown, Chambersburg, and Heidlersburg Compressor Stations through the addition of new compressor units, and uprating of certain units at two of the stations and abandoning certain units at two of the stations. Texas Eastern also proposes to replace 25.9 miles of various diameter pipeline with 36-inch diameter pipeline, construct 9.6 miles of new 36-inch pipeline, and construct 26.5 miles of new 30-inch pipeline. Texas Eastern further proposes to uprate the maximum allowable operating pressure of its Lines 1 and 2 from 1,000 pounds per square inch gauge (psig) to 1,112 psig for 268 miles between its Uniontown and Marietta Compressor Stations (Capacity Restoration Project). The subject facilities will cost approximately $646.6 million and are located in Greene, Bedford, Franklin, Adams, Lancaster and York Counties, Pennsylvania. Texas Eastern requests authorization to charge individual initial incremental rates for TEMAX, TIME III, and Marietta Extension services.

Any questions regarding this application should be directed to Garth Johnson, General Manager for Rates and Certificates, Texas Eastern Transmission, LP, P.O. Box 1642, Houston, Texas 77251–1642, telephone no. (713) 627–5415, and FAX (713) 627–5947.

On July 25, 2008, the Commission staff granted Texas Eastern's request to utilize the FERC Pre-Filing Process and assigned Docket No. PF08–27–000 to staff activities involved in the TEMAX and TIME III Projects. Now as of the filing of Texas Eastern's application on February 27, 2009, the Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP09–68–000, as noted in the caption of this Notice.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit

14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: April 1, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–5771 Filed 3–17–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM96–1–029]

Standards for Business Practices for Interstate Natural Gas Pipelines; Notice Clarifying Implementation Date and Compliance Date

March 11, 2009.

On February 24, 2009, the Commission issued a final rule in the above-captioned proceeding, Order No. 587–T, that incorporated by reference into the Commission's regulations, revisions adopted by the North American Energy Standards Board to the business practices standards for natural gas pipelines. *Standards of Business Practices for Interstate Natural Gas Pipelines,* 126 FERC ¶ 61,129 (2009). The final rule was published in the **Federal Register** on March 3, 2009, (74 FR 9162) and became effective April 2, 2009. Under the implementation schedule established in the rule, natural gas pipelines are required to implement the standards on August 1, 2009, and file tariff sheets to reflect the changed standards on June 1, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–5774 Filed 3–17–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2582–027]

Rochester Gas and Electric Corp.; Notice of Availability of Final Environmental Assessment

March 11, 2009.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission or FERC) regulations, 18 CFR part 380, Commission staff has reviewed the application for amendment of license for the Station 2 Project (FERC No. 2582) and has prepared a final environmental assessment (final EA). The project is located on the Genesee River in Monroe County, New York.

The final EA contains the Commission staff's analysis of the potential environmental effects of the proposed addition of new generating capacity and concludes that authorizing the amendment, with appropriate environmental protective measures, would not constitute a major Federal action that would significantly affect the quality of the human environment.

Copies of the final EA are available for review in the Public Reference Room 2–A of the Commission's offices at 888 First Street, NE., Washington, DC 20426. The final EA may also be viewed on the Commission's Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. Additional information about the project is available from the Commission's Office of External Affairs, at (202) 502–6088, or on the Commission's Web site using the eLibrary link. For assistance with eLibrary, contact *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676; for TTY contact (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–5772 Filed 3–17–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR09–16–000]

Enogex, LLC; Notice of Filing

March 11, 2009.

Take notice that on February 27, 2009, Enogex, LLC (Enogex) filed pursuant to section 284.123(e) of the Commission's regulations, a revised Statement of Operating Conditions (SOC) proposing to implement a new firm transportation service on its East Zone effective April 1, 2009. Enogex states that it is making the revisions to its SOC in advance of a rate petition which will seek to establish new firm section 311 transportation rates on its East Zone and to revise its existing interruptible rates on its East and West Zones.

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 Wednesday, March 24, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–5773 Filed 3–17–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting Notice

March 12, 2009.

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: March 19, 2009. 10 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

* **Note—** Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's Web site at *http://www.ferc.gov* using the eLibrary link, or may be examined in the Commission's Public Reference Room.

946TH—MEETING

Item No.	Docket No.	Company
		Administrative
A–1	AD02–1–000	Agency Administrative Matters.
A–2	AD02–7–000	Customer Matters, Reliability, Security and Market Operations.
		Electric
E–1	OMITTED.	
E–2	OMITTED.	
E–3	RM05–17–004, RM05–25–004	Preventing Undue Discrimination and Preference in Transmission Service.
E–4	RM05–5–013	Standards for Business Practices and Communication Protocols for Public Utilities.
E–5	RM08–19–000, RM09–5–000, RM06–16–005.	Mandatory Reliability Standards for the Calculation of Available Transfer Capability, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, and Existing Transmission Commitments and Mandatory Reliability Standards for the Bulk-Power System.
E–6	RM06–22–000	Mandatory Reliability Standards for Critical Infrastructure Protection.
E–7	OMITTED.	
E–8	RM06–8–002	Long-Term Firm Transmission Rights in Organized Electricity Markets.
E–9	RM08–11–000	Version Two Facilities Design, Connections and Maintenance Reliability Standards.
E–10	EL03–180–035	Enron Power Marketing, Inc. and Enron Energy Services, Inc.
	EL03–154–028	Enron Power Marketing, Inc. and Enron Energy Services, Inc.
	EL02–114–029	Portland General Electric Company.
	EL02–115–033	Enron Power Marketing, Inc.
	EL02–113–031	El Paso Electric Company, Enron Power Marketing, Inc., Enron Capital and Trade Resource Corp.
E–11	EC08–111–000	Franklin Resources, Inc. and its Investment Management Subsidiaries and Applicant Funds.
E–12	OMITTED.	
E–13	ER08–1569–001	PJM Interconnection, L.L.C.
E–14	ER08–1065–001	PJM Interconnection, L.L.C.
E–15	OA08–5–003	Southwest Power Pool, Inc.
E–16	OA08–5–001, OA08–5–002	Southwest Power Pool, Inc.
E–17	EL06–80–004	Michigan Public Power Agency v. Midwest Independent Transmission System Operator, Inc.
E–18	EL00–95–000, EL00–98–000	San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange Corporation, Investigation of Practices of the California Independent System Operator Corporation and California Power Exchange Corporation.

946TH—MEETING—Continued

Item No.	Docket No.	Company
E–19	ER07–869–003, ER07–475–004, ER06–615–029.	California Independent System Operator Corporation.
E–20	EL03–152–007	Duke Energy Trading and Marketing, L.L.C.
	EL03–141–005, EL03–141–006	Bonneville Power Administration.
	EL03–143–004	California Power Exchange.
	EL03–144–004	Cargill-Alliant, L.L.C.
	EL03–145–005	City of Anaheim, California.
	EL03–146–006	City of Azusa, California.
	EL03–147–007	City of Glendale, California.
	EL03–148–004	City of Pasadena, California.
	EL03–150–006	City of Riverside, California.
	EL03–151–007	Coral Power, L.L.C.
	EL03–153–007	Dynegy Power Marketing, Inc., Dynegy Power Corporation, El Segundo Power L.L.C., Long Beach Generation L.L.C., Cabrillo Power I, L.L.C., and Cabrillo Power II, L.L.C.
	EL03–154–029	Enron Power Marketing, Inc. and Enron Energy Services, Inc.
	EL03–155–004	FP&L Energy.
	EL03–157–005	Los Angeles Department of Water and Power.
	EL03–161–004	Northern California Power Agency.
	EL03–164–004	PGE Energy Services.
	EL03–167–006	Public Service Company of Colorado.
	EL03–168–005, EL03–168–006	Public Service Company of New Mexico.
	EL03–171–004, EL03–171–005	Salt River Project Agricultural Improvement and Power District.
	EL03–174–004	Sierra Pacific Power Company.
	EL03–176–005	TransAlta Energy Marketing (U.S.), Inc. and TransAlta Energy Marketing (California), Inc.
	EL03–177–005, EL03–177–006	Tucson Electric Power Company.
	EL03–178–004, EL03–178–005	Western Area Power Administration.
	EL03–137–010	American Electric Power Services Corporation.
	EL03–138–009	Aquila Merchant Services, Inc.
	EL03–139–007, EL03–139–008	Arizona Public Service, Inc.
	EL03–140–004, EL03–140–005	Automated Power Exchange, Inc.
	EL03–142–004	California Department of Water Resources.
	EL03–149–006	City of Redding, California.
	EL03–156–007	Idaho Power Company.
	EL03–158–007	Mirant Americas Energy Marketing, L.P., Mirant California, L.L.C., Mirant Delta, L.L.C. and Mirant Potrero, L.L.C.
	EL03–159–007	Modesto Irrigation District.
	EL03–160–006	Morgan Stanley Capital Group.
	EL03–162–003, EL03–162–004	Pacific Gas and Electric Company.
	EL03–163–006	PacifiCorp.
	EL03–165–009, EL03–165–010	Portland General Electric Company.
	EL03–166–008	Powerex Corporation (f/k/a British Columbia Power Exchange Corporation).
	EL03–169–006, EL03–169–007	Puget Sound Energy, Inc.
	EL03–170–007	Reliant Resources, Inc. Reliant Energy Power Generation, and Reliant Energy Services, Inc.
	EL03–172–004, EL03–172–005	San Diego Gas & Electric Company.
	EL03–173–007	Sempra Energy Trading Corporation.
	EL03–175–004, EL03–175–005	Southern California Edison Company.
	EL03–179–008	Williams Energy Services Corporation.
	EL03–180–039	Enron Power Marketing, Inc. and Enron Energy Services, Inc.
	EL03–181–010	Aquila, Inc.
	EL03–182–009	City of Glendale, California.
	EL03–183–005	City of Redding, California.
	EL03–184–006	Colorado River Commission.
	EL03–185–006	Constellation Power Source, Inc.
	EL03–186–008	Coral Power, L.L.C.
	EL03–187–008	El Paso Merchant Energy, L.P.
	EL03–188–007	Eugene Water and Electricity Board.
	EL03–189–009	Idaho Power Company.
	EL03–190–006	Koch Energy Trading, Inc.
	EL03–191–005	Las Vegas Cogeneration, L.P.
	EL03–192–006	MIECO.
	EL03–193–008	Modesto Irrigation District.
	EL03–194–005	Montana Power Company.
	EL03–195–007	Morgan Stanley Capital Group.
	EL03–196–008	Northern California Power Agency.
	EL03–197–009	PacifiCorp.
	EL03–198–006	PEPCO.
	EL03–199–008	Powerex Corporation (f/k/a British Columbia Power Exchange Corporation).
	EL03–200–008, EL03–200–009	Public Service Company of New Mexico.
	EL03–201–009	Sempra Energy Trading Corporation.

946TH—MEETING—Continued

Item No.	Docket No.	Company
	EL03–202–007	TransAlta Energy Marketing (U.S.), Inc. and TransAlta Energy Marketing (California), Inc.
	EL03–203–005	Valley Electric Association, Inc.
	EL02–114–030	Portland General Electric Company.
	EL02–115–034	Enron Power Marketing, Inc.
E–21	RM08–7–000, RM08–7–001	Modification of Interchange and Transmission Loading Relief Reliability Standards; and Electric Reliability Organization Interpretation of Specific Requirements of Four Reliability Standards.
E–22	PL09–4–000	Smart Grid Policy.
	Gas	
G–1	RP09–3–000, P09–7–000, RP09–7–001, RP09–7–002.	Texas Gas Transmission, LLC.
G–2	RP08–426–000	El Paso Natural Gas Company.
G–3	OMITTED.	
	Hydro	
H–1	P–13164–001	Bangor Water District.
H–2	P–2082–053	PacifiCorp.
	Certificates	
C–1	CP08–431–000	Columbia Gas Transmission Corporation.
C–2	CP05–130–000, CP05–130–001, CP05–130–002, CP05–130–003, CP05–130–005, CP05–132–000, CP05–132–001, CP05–132–002, CP05–132–004, CP05–395–000, CP05–395–001, CP05–395–004.	Dominion Cove Point, LNG., LP.
	CP05–131–000, CP05–131–001, CP05–131–002, CP05–131–004.	Dominion Transmission, Inc.
C–3	CP08–104–000	Southern Natural Gas Company.
C–4	CP08–441–000	CenterPoint Energy Gas Transmission Company.
	CP08–444–000	Texas Eastern Transmission, LP.
C–5	OMITTED.	
C–6	CP09–1–000	Collbran Valley Gas Gathering, LLC.
C–7	CP09–19–000	Port Barre Investments, L.L.C. d/b/a/ Bobcat Gas Storage.
C–8	CP06–398–001	MoBay Storage Hub, LLC.

Kimberly D. Bose,

Secretary.

A free Web cast of this event is available through *http://www.ferc.gov.* Anyone with Internet access who desires to view this event can do so by navigating to *http://www.ferc.gov's* Calendar of Events and locating this event in the Calendar. The event will contain a link to its Web cast. The Capitol Connection provides technical support for the free Web casts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or contact Danelle Springer or David Reininger at 703–993–3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. E9–5770 Filed 3–17–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR09–19–000]

Crosstex LIG, LLC; Notice of Petition for Rate Approval

March 11, 2009.

Take notice that on March 3, 2009, Crosstex LIG, LLC (CLIG) filed pursuant to section 284.123(b)(2) of the Commission's regulations, a petition requesting approval of rates pursuant to section 311(a)(2) of the Natural Gas Policy Act. CLIG proposes to change from its currently effective system-wide rates to zone rates. CLIG states that the cost-justified maximum rates for firm transportation service on the North Zone consist of a monthly demand charge of $68.3014 per MMBtu, a usage charge of $0.0100 per MMBtu and Interruptible and Overrun charges of $2.2555 per MMBtu. On the South Zone, CLIG states that the cost-justified maximum rates for firm transportation service consist of a monthly demand charge of $4.2461 per MMBtu, a usage charge of $0.0007 per MMBtu and Interruptible and Overrun charges of $0.1403 per MMBtu. Further, CLIG proposes to have a single Statement of Operating Conditions, (SOC) which will replace its existing SOCs for firm and interruptible transportation service.

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 Wednesday, March 25, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–5775 Filed 3–17–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER09–556–000; Docket Nos. ER09–556–000; and ER06–615–039; ER08–367–003]

California Independent System Operator Corporation; Notice Shortening Answer Period

March 11, 2009.

On March 6, 2009, the California Independent System Operator Corporation (CAISO) filed a Motion to Modify Effective Date of Certain Proposed Tariff Revisions and for Expedited Answer Period (March 6 Motion). In the filing, CAISO requests that the Commission establish an expedited time period to file answers to the motion in order to facilitate Commission consideration of the motion. By this notice, the date for filing answers to CAISO's March 6 Motion is shortened to and including March 13, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–5777 Filed 3–17–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM08–2–001]

Pipeline Posting Requirements Under Section 23 of the Natural Gas Act; Notice of Agenda for Technical Conference

March 11, 2009.

On February 24, 2009, the Commission issued a Notice of Technical Conference (February 24 Notice), to be held March 18, 2009, in the above referenced proceeding. The technical conference is being held by staff for the purpose of discussing certain issues raised in the requests for rehearing filed in response to Order No. 720.[1] As stated in the February 24 Notice, the technical conference will be held at the headquarters of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, from 9 a.m. to 1 p.m. (EDT).

Attached is an agenda for the March 18, 2009, technical conference. The February 24 Notice identified three topics for discussion: (1) The definition of major non-interstate pipelines; (2) what constitutes ''scheduling'' for a receipt or delivery point; and, (3) how the 15,000 MMBtu per day design capacity threshold should be applied. As reflected in the attached agenda, Panel 1 will address the first topic, with a focus on contiguous and non-contiguous networks, stub lines and other gathering issues; Panel 2 will address the second and third topics, with a focus on how pipeline systems account for high capacity receipt and delivery points (*i.e.*, greater than 15,000 MMBtu per day) where scheduling does not occur; and, Panel 3 will focus on estimating the cost of compliance with Order No. 720.

[1] *Pipeline Posting Requirements under Section 23 of the Natural Gas Act*, Order No. 720, FERC Stats. & Regs. ¶ 31,281 (2008).

This conference will be transcribed. There is no registration required to attend and no registration fee. For additional information, please contact Saida Shaalan of FERC's Office of Enforcement at (202) 502–8278 or by e-mail at *Saida.Shaalan@ferc.gov.*

Kimberly D. Bose,

Secretary.

Agenda for Technical Conference

Order No. 720 Rehearing Issues Technical Conference RM08–02–001

March 18, 2009

Commission Meeting Room

9–9:10 a.m.—Opening Remarks

9:10–9:50 a.m.—Defining Major Non-Interstate Pipelines

Assessing contiguous and non-contiguous networks

—What constitutes a contiguous pipeline system for the purpose of applying the annual 50 million MMBtu delivery threshold?

—What are the market differences between non-contiguous pipeline systems with the same owner and a single pipeline system?

Stub lines and other gathering issues

—What role do stub lines play in the market? How are they operated?

—What gathering functions do not occur upstream of a processing plant? How widespread are those activities (e.g., volumes)?

Panelists:

Representative from TPA

Representative from Southwest Gas

Representative from AGA

9:50 a.m.–12 p.m.—Accounting for High Capacity Receipt and Delivery Points (i.e., Greater than 15,000 MMBtu Per Day) Where Scheduling Does Not Occur

Is there some rule of thumb to identify points at which advance notice of receipts/deliveries is required for operational purposes?

How do companies without scheduling information address the risk of demand volatility from large scale consumers receiving unbundled service?

How do pipelines reconcile nominations with actual flows at pooled points?

Panelists:

Representative from TPA

Representative from SoCal Gas

Representative from Nicor

Representative from AGA

12:10–12:50 p.m.—Estimating the Cost of Compliance

What is the basis for cost estimates in the rehearing requests?

Are there alternative approaches that

would reduce costs?
Panelists:
Representative from SoCal Gas
Representative from TPA
12:50–1 p.m.—Closing Remarks

[FR Doc. E9–5776 Filed 3–17–09; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8778–4]

Adequacy of Virginia's Municipal Solid Waste Landfill Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Determination of Adequacy.

SUMMARY: On March 22, 2004, the U.S. EPA issued final regulations allowing research, development, and demonstration (RD&D) permits to be issued to certain municipal solid waste landfills (MSWLF) by approved states. On September 19, 2008 Virginia submitted an application to U.S. EPA Region 3 seeking approval of its RD&D requirements. Virginia's RD&D requirements allow Virginia to issue research, development and demonstration (RD&D) permits to owners and operators of MSWLF units in accordance with state law. Subject to public review and comment, this notice approves Virginia's RD&D permit requirements.

DATES: This determination of RD&D program adequacy for Virginia will become effective May 18, 2009 unless adverse comments are received on or before May 18, 2009. If adverse comments are received, the U.S. EPA will review those comments and publish another FR document responding to those comments and either affirming or revising the U.S. EPA's initial decision.

ADDRESSES: Written comments should be sent to Mike Giuranna, Land and Chemicals Division, Office of Materials Management (Mail Code 3LC40), U.S. EPA Region 3, 1650 Arch Street, Philadelphia, PA 19103–2029, telephone: (215) 814–3298. Comments may also be submitted electronically to *giuranna.mike@epa.gov* or by facsimile at (215) 814–3163. You may examine copies of Virginia's application and relevant portions of Virginia's regulations during normal business hours at U.S. EPA Region 3.

FOR FURTHER INFORMATION CONTACT: Mike Giuranna, Land and Chemicals Division, Office of Materials Management (Mail Code 3LC40), U.S. EPA Region 3, 1650 Arch Street, Philadelphia, PA 19103–2029, telephone: (215) 814–3298. e-mail *giuranna.mike@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

On March 22, 2004, EPA issued a final rule amending the municipal solid waste landfill criteria in 40 CFR part 258 to allow for the issuance of research, development and demonstration (RD&D) permits (69 FR 13242). This rule allows for variances from specified criteria for a limited period of time, to be implemented through state-issued RD&D permits. RD&D permits are available only in states with EPA approved MSWLF permit programs that have been modified to incorporate RD&D permit authority. While states are not required to seek approval for this new provision, those states that are interested in issuing RD&D permits to owners and operators of MSWLFs must seek approval from EPA before issuing such permits. Approval procedures for new provisions of 40 CFR Part 258 are outlined in 40 CFR 239.12.

Virginia's MSWLF permit program was approved by EPA on February 3, 1993 (58 FR 6955), March 31, 1994 (59 FR 15201) and October 7, 2003 (68 FR 57824). On September 19, 2008, Virginia applied for approval of its RD&D permit provisions which are included in the Virginia Administrative Code at 9 VAC 20–80–485D.

B. Decision

After a thorough review, U.S. EPA Region 3 determined that Virginia's RD&D permit provisions at 9 VAC 20–80–485D are adequate to ensure compliance with the Federal criteria promulgated at 40 CFR 258.4.

Authority: This action is issued under the authority of section 2002, 4005 and 4010(c) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6945 and 6949a.

Dated: January 28, 2009.

William T. Wisniewski,

Acting Regional Administrator, Region 3.

[FR Doc. E9–5845 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2008–0809; FRL–8783–3]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Notice of Arrival of Pesticides and Devices (FIFRA); EPA ICR No. 0152.09 OMB Control No. 2070–0020

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 April 17, 2009.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OECA–2008–0809 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 and Information Center (ECDIC), 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: Robin Nogle, Office of Compliance, Agriculture Division (2225A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–4154; fax number: (202) 564–0085; e-mail address: *nogle.robin@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 December 9, 2008, (73 FR 74715–74717), 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–2008–0809, 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 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: Notice of Arrival of Pesticides and Devices (FIFRA).

ICR numbers: EPA ICR No. 0152.09, OMB Control No. 2070–0020.

ICR Status: This ICR is scheduled to expire on March 31, 2009. 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, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The U.S. Customs and Border Protection regulations at 19 CFR 12.112 require that an importer desiring to import pesticides into the United States shall, prior to the shipment's arrival, submit a Notice of Arrival of Pesticides and Devices (EPA Form 3540–1) to EPA, who will determine the disposition of the shipment. After completing the form, EPA returns the form to the importer, or his agent, who must present the form to Customs and Border Protection upon arrival of the shipment at the port of entry. This is necessary to ensure that EPA is notified of the arrival of pesticides and devices as required by the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) section 17(c) and has the ability to examine such shipments to determine whether they are in compliance with FIFRA.

The form requires identification and address information of the importer or his agent and information on the identity and location of the imported pesticide or device shipment.

When the form is submitted to EPA regional personnel for review it is examined to determine whether the shipment should be released for entry upon arrival or alternatively whether it should be detained for examination. The responsible EPA official returns the form to the respondent with EPA instructions to Customs and Border Protection as to the disposition of the shipment.

Upon the arrival of the shipment, the importer presents the completed Notice of Arrival (NOA) to the District Director of Customs and Border Protection at the port of entry who then compares entry documents for the shipment with the NOA and notifies the EPA Regional Office of any discrepancies which the EPA will resolve with the importer or broker. At this point the shipment may be retained for examination. If there are no discrepancies, Customs and Border Protection follows instructions regarding release or detention. If EPA inspects the shipment and it appears from examination of a sample that it is adulterated, misbranded or otherwise violates the provisions of FIFRA, or is otherwise injurious to health or the environment, the pesticide or device may be refused admission into the United States.

This information collection activity reporting requirement is needed to allow Customs and Border Protection to fulfill its statutory obligation to inform EPA of pesticides and devices arriving in the United States so that EPA can ensure compliance with FIFRA by the responsible party importing the pesticides or devices. The information permits EPA to stop unregistered, suspended, canceled, misbranded, contaminated, or otherwise violative products from being imported into the country, track those that do enter, and minimize any adverse environmental impact that might arise from the importation of violative products. If EPA did not collect this information, EPA and Customs and Border Protection would be unable to meet their statutory requirements under FIFRA.

The information collected is used by EPA regional pesticide enforcement and compliance staff and the headquarters Office of Enforcement and Compliance Assurance and Office of Pesticide Programs. The U.S. Department of Homeland Security (Customs and Border Protection), the Department of Agriculture, the Food and Drug Administration, and other Federal agencies may also make use of this information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.3 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: Pesticide Importers.

Estimated Number of Respondents: 25,000.

Frequency of Response: 1.

Estimated Total Annual Hour Burden: 7500.

Estimated Total Annual Cost: $423,420, includes $0 annualized capital or O&M costs.

Changes in the Estimates: There is no change of hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens.

Dated: March 12, 2009.

John Moses,

Acting Director, Collection Strategies Division.

[FR Doc. E9–5877 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0477; FRL–8400–6]

Caprylic (Octanoic) Acid; Antimicrobial Registration Review Final Work Plan and Proposed Registration Review Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Final Work Plan and Proposed Registration Review Decision for the pesticide case Caprylic (Octanoic) Acid, and opens a public comment period on the proposed registration review decision. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, that the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

DATES: Comments must be received on or before May 18, 2009.

ADDRESSES: Submit your comments, identified by docket identification (ID) numbers EPA–HQ–OPP–2008–0477, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID numbers and the regulatory contacts listed under Table 1 for each of the cases to which you are submitting a comment. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: For information about the pesticide included in this document, contact the Chemical Review Manager as identified in the table in Unit II.

For general questions on the registration review program for antimicrobial chemicals, contact Diane Isbell, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8154; fax number: (703) 308–8481; e-mail address: *isbell.diane@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

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

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying

information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

This notice opens a 60–day public comment period on the subject proposed registration review decision document. The Agency is proposing a registration review decision for the pesticide case shown in the following Table.

TABLE 1: REGISTRATION REVIEW DOCKET - FINAL DECISION

Registration Review Case Name and Number	Pesticide Docket ID Number	Regulatory Contact name, Phone Number, E-mail Address
Case 5028; Caprylic (Octanoic) Acid	EPA–HQ–OPP–2008–0477	ShaRon Carlisle; (703) 308–6427; *carlisle.sharon@epa.gov*

The docket for registration review of this pesticide case includes earlier documents related to the registration review of the subject case. For example, the review opened with the posting of a Summary Document, containing a Preliminary Work Plan (PWP), for public comment. Because no comments were received, and because the Agency required no further risk assessments to complete registration review of these cases, the Final Work Plan and Proposed Decision were combined into a single document. The documents in the initial docket described the Agency's rationale for not conducting new risk assessments for the registration review of Caprylic (Octanoic) Acid. This proposed registration review decision now included in the docket continues to be supported by the rationale included in documents in the initial docket. Following public comment, the Agency will issue a final registration review decision for Caprylic (Octanoic) Acid.

The registration review program is being conducted under congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public. Section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1996 required EPA to establish by regulation procedures for reviewing pesticide registrations, originally with a goal of reviewing each pesticide's registration every 15 years to ensure that a pesticide continues to meet the FIFRA standard for registration. The Agency's final rule to implement this program was issued in August 2006 and became effective in October 2006 and appears at 40 CFR Part 155.40 *et seq*. The Pesticide Registration Improvement Act of 2003 (''PRIA'') was amended and extended in September 2007. FIFRA as amended by PRIA in 2007 requires EPA to complete registration review decisions by October 1, 2022 for all pesticides registered as of October 1, 2007. The registration review final rule provides for a minimum 60–day public comment period for all proposed registration review decisions. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the proposed decision(s). All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the Agency Docket for Caprylic (Octanoic) Acid. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. The Agency will carefully consider all comments received by the closing date and will provide a Response to Comments Memorandum in the Dockets and *www.regulations.gov*. The final registration review decisions will explain the effect that any comments have had on the decisions.

Background on the registration review program is provided at: *http://www.epa.gov/oppsrrd1/registration_review/*. Quick links to earlier documents related to the registration review of this pesticide are provided at: *http://www.epa.gov/oppsrrd1/registration_review/reg_review_status.htm/*.

B. What is the Agency's Authority for Taking this Action?

FIFRA section 3(g) and 40 CFR Part 155.40 *et seq*. provide authority for this action.

List of Subjects

Environmental protection, registration review, pesticides, and pests, antimicrobials, and caprylic (octanoic) acid.

Dated: February 12, 2009.

Joan Harrigan Farrelly,

Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. E9–5727 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0169; FRL–8405–8]

Bromine; Inorganic Halides; Bromine Chloride Registration Review; Antimicrobial Pesticide Dockets Opened for Review and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established registration review dockets for the pesticides listed in the table in Unit III.A. With this document, EPA is opening the public comment period for these registration reviews. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the

environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the Agency may consider during the course of registration reviews. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

DATES: Comments must be received on or before June 16, 2009.

ADDRESSES: Submit your comments identified by the docket identification (ID) number for the specific pesticide of interest provided in the table in Unit III.A., by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to the docket ID numbers listed in the table in Unit III.A. for the pesticides you are commenting on. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information contact*: The Chemical Review Manager identified in the table in Unit III.A. for the pesticide of interest.

For general information on antimicrobial chemicals contact: Diane Isbell, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308-8154; fax number: (703) 308–8090; e-mail address: *isbell.diane@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farmworker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

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

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice*. EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other

factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

II. Authority

EPA is initiating its reviews of the pesticides identified in this document pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA section 3(a), a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What Action is the Agency Taking?

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registrations identified in the table in this unit to assure that they continue to satisfy the FIFRA standard for registration—that is, they can still be used without unreasonable adverse effects on human health or the environment. A pesticide's registration review begins when the Agency establishes a docket for the pesticide's registration review case and opens the docket for public review and comment. At present, EPA is opening registration review dockets for the cases identified in the following table.

TABLE—REGISTRATION REVIEW DOCKETS OPENING

Registration Review Case Name and Number	Docket ID Number	Chemical Review Manager, Telephone Number, E-mail Address
Bromine, 4015	EPA–HQ–OPP–2009–0167	K. Avivah Jakob, 703-305-1328, jakob.kathryn@epa.gov
Inorganic Halides, 4051	EPA–HQ–OPP–2009–0168	K. Avivah Jakob, 703-305-1328, jakob.kathryn@epa.gov
Bromine Chloride, 5008	EPA–HQ–OPP–2009–0025	Eliza Blair, 703-308-7279, blair.eliza@epa.gov

B. Docket Content

1. *Review dockets.* The registration review dockets contain information that the Agency may consider in the course of the registration review. The Agency may include information from its files including, but not limited to, the following information:

- An overview of the registration review case status.
- A list of current product registrations and registrants.
- **Federal Register** notices regarding any pending registration actions.
- **Federal Register** notices regarding current or pending tolerances.
- Risk assessments.
- Bibliographies concerning current registrations.
- Summaries of incident data.
- Any other pertinent data or information.

Each docket contains a document summarizing what the Agency currently knows about the pesticide case and a preliminary work plan for anticipated data and assessment needs. Additional documents provide more detailed information. During this public comment period, the Agency is asking that interested persons identify any additional information they believe the Agency should consider during the registration reviews of these pesticides. The Agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

2. *Other related information.* More information on these cases, including the active ingredients for each case, may be located in the registration review schedule on the Agency's website at *http://www.epa.gov/oppsrrd1/registration_review/schedule.htm*. Information on the Agency's registration review program and its implementing regulation may be seen at *http://www.epa.gov/oppsrrd1/registration_review*.

3. *Information submission requirements.* Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.
- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.
- As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

List of Subjects

Environmental protection, Pesticides and pests, Antimicrobials, Bromine, Inorganic Halides, and Bromine Chloride.

Dated: March 6, 2009.

Joan Harrigan-Farrelly,

Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. E9–5712 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007-1040; FRL–8405–4]

Capric (Decanoic) Acid Registration Review Final Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's final registration review decision for the pesticide Capric (Decanoic) Acid, case 5038. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, that the pesticide can perform its intended function without causing unreasonable adverse effects on human health or the environment. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information, contact*: Eliza Blair, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–7279; fax number: (703) 308–-8481; e-mail address: *blair.eliza@epa.gov*.

For general information on the antimicrobials registration review program, contact: Diane Isbell, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308-8154; fax number: (703) 308–8481; e-mail address: *isbell.diane@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the pesticide specific contact person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–1040. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Background

A. What Action is the Agency Taking?

Pursuant to 40 CFR 155.58(c), this notice announces the availability of EPA's final registration review decision for Capric (Decanoic) Acid, case 5038. Capric (Decanoic) Acid is an antimicrobial pesticide that is used as a food-contact surface sanitizer in commercial food handling establishments.

Pursuant to 40 CFR 155.57, a registration review decision is the Agency's determination whether a pesticide meets, or does not meet, the standard for registration in FIFRA. EPA has considered Capric (Decanoic) Acid in light of the FIFRA standard for registration. The Capric (Decanoic) Acid Final Decision document in the docket describes the Agency's rationale for issuing a registration review final decision for this pesticide.

In addition to the final registration review decision document, the registration review docket for Capric (Decanoic) Acid also includes other relevant documents related to the registration review of this case. The proposed registration review decision was posted to the docket and the public was invited to submit any comments or new information. During the 60–day comment period, no public comments were received.

Pursuant to 40 CFR 155.58(c), the registration review case docket for Capric (Decanoic) Acid will remain open until all actions required in the final decision have been completed.

Background on the registration review program is provided at: *http://www.epa.gov/oppsrrd1/registration_review*. Links to earlier documents related to the registration review of this pesticide are provided at: http://www.epa.gov/oppsrrd1/registration_review/capric_acid/index.htm.

B. What is the Agency's Authority for Taking this Action?

Section 3(g) of FIFRA and 40 CFR part 155, subpart C, provide authority for this action.

List of Subjects

Environmental protection, Registration review, Pesticides and pests, Capric (Decanoic) Acid, antimicrobials.

Dated: March 3, 2009.

Joan Harrigan Farrelly,

Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. E9–5754 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL 8774–3]

Clean Water Act Section 303(d): Availability of List Decisions

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of EPA's final action identifying water quality limited segments and associated pollutants in New Mexico to be listed pursuant to Clean Water Act Section 303(d), and request for public comment. Section 303(d) requires that states submit and EPA approve or disapprove lists of

waters for which existing technology-based pollution controls are not stringent enough to attain or maintain state water quality standards and for which total maximum daily loads (TMDLs) must be prepared.

On February 6, 2009, EPA approved and disapproved New Mexico's 2008 Section 303(d) submittal. Specifically, EPA approved New Mexico's listing of 338 water body-pollutant combinations and associated priority rankings. EPA disapproved New Mexico's decisions not to list one water quality limited segments (or one water body-pollutant combination) and to list two water quality limited segments (or two water body-pollutant combinations). For the disapproval decision not to list one water quality limited segment, EPA identified this additional water body and pollutant along with priority ranking for inclusion on New Mexico's 2008 Section 303(d) List.

EPA is providing the public the opportunity to review its final decisions to both list and de-list waters and pollutants to New Mexico's 2008 Section 303(d) List, as required by EPA's Public Participation regulations (40 CFR part 25). EPA will consider public comments and if necessary amend its final action on the listing and de-listing of water bodies and pollutants identified on New Mexico's Final 2008 Section 303(d) List.

DATES: Comments must be submitted in writing to EPA on or before April 17, 2009.

ADDRESSES: Comments on the decisions should be sent to Diane Smith, Environmental Protection Specialist, Water Quality Protection Division, U. S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, TX 75202–2733, telephone (214) 665–2145, facsimile (214) 665–7373, or e-mail: *smith.diane@epa.gov.* Oral comments will not be considered. Copies of the Record of Decision which explains the rationale for EPA's decisions can be obtained at EPA Region 6's Web site at *http://www.epa.gov/region6/water/npdes/tmdl/index.htm,* or by writing or calling Ms. Smith at the above address. Underlying documents from the administrative record for these decisions are available for public inspection at the above address. Please contact Ms. Smith to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Diane Smith at (214) 665–2145.

SUPPLEMENTARY INFORMATION: Section 303(d) of the Clean Water Act (CWA) requires that each state identify those waters for which existing technology-based pollution controls are not stringent enough to attain or maintain state water quality standards. For those waters, states are required to establish Total Maximum Daily Loads (TMDLs) according to a priority ranking.

EPA's Water Quality Planning and Management regulations include requirements related to the implementation of Section 303(d) of the CWA (40 CFR 130.7). The regulations require states to identify water quality limited waters still requiring TMDLs every two years. The list of waters still needing TMDLs must also include priority rankings and must identify the waters targeted for TMDL development during the next two years (40 CFR 130.7).

Consistent with EPA's regulations, New Mexico submitted to EPA its listing decisions under Section 303(d) on August 12, 2008. On February 6, 2009, EPA approved New Mexico's listing of 338 water body-pollutant combinations and associated priority rankings. EPA disapproved New Mexico's decisions not to list one water quality limited segments (or one water body-pollutant combination) and to list two water quality segments (or two water body-pollutant combinations). EPA solicits public comment on its listing one water to New Mexico's 2008 Section 303(d) List and the de-listing of two waters from New Mexico's 2008 Section 303(d) List.

Dated: February 10, 2009.

James R. Brown,

Acting Director, Water Quality Protection Division, Region 6.

[FR Doc. E9–5853 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R01–OW–2008–0921; FRL–8778–7]

Massachusetts Marine Sanitation Device Standard—Notice of Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Determination.

SUMMARY: The Regional Administrator of the Environmental Protection Agency—New England Region, has determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the State waters of Revere, Saugus, Lynn, Nahant, and Swampscott.

ADDRESSES: *Docket:* All documents in the docket are listed in the *http://www.regulations.gov index.* Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ann Rodney, U.S. Environmental Protection Agency—New England Region, One Congress Street, Suite 1100, COP, Boston, MA 02114–2023. Telephone: (617) 918–0538. Fax number: (617) 918–1505. E-mail address: *rodney.ann@epa.gov.*

SUPPLEMENTARY INFORMATION: On January 5, 2009, EPA published a notice that the Commonwealth of Massachusetts had petitioned the Regional Administrator, Environmental Protection Agency, to determine that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the State waters of Revere, Saugus, Lynn, Nahant, and Swampscott. Eighty-one comments were received on this petition. There were eighty comments in support of the designation and one comment in opposition. The response to comments can be obtained utilizing the above contact information.

The petition was filed pursuant to Section 312(f)(3) of Public Law 92–500, as amended by Public Laws 95–217 and 100–4, for the purpose of declaring these waters a No Discharge Area (NDA).

Section 312(f)(3) States:

> After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such States require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply.

This Notice of Determination is for the State waters of Revere, Saugus, Lynn, Nahant, and Swampscott. The NDA boundaries are as follows:

Waterbody/general area	Latitude	Longitude
From the Revere and Winthrop municipal boundary (northern edge of the Boston Harbor NDA)	42°23′30″ N	70°58′50″ W
North along the Revere and Winthrop municipal boundary (northern edge of the Boston Harbor NDA).	42°24′28″ N	70°57′33″ W
Arc south along the Winthrop and Nahant municipal boundary	42°23′13″ N	70°55′28″ W
Arc east along the Winthrop and Nahant municipal boundary	42°23′04″ N	70°54′04″ W
Arc northeast along the Winthrop and Nahant municipal boundary	42°23′32″ N	70°51′28″ W
North to the Marblehead/Swampscott town line (southern edge of the Salem Sound NDA)	42°26′33″ N	70°49′05″ W
West along the Marblehead/Swampscott town line (southern edge of the Salem Sound NDA)	42°28′43″ N	70°52′45″ W
Inland on the Pines River, Rt. 107 Bridge	42°25′51.93″ N	70°59′50.28″ W
Inland on the Saugus River, Lincoln Ave. Bridge	42°27′34.7″ N	70°59′20.6″ W

The information submitted to EPA by the Commonwealth of Massachusetts certifies that there are two pumpout facilities located within this area. A list of the facilities, with phone numbers, locations, and hours of operation is appended at the end of this determination.

Based on the examination of the petition and its supporting documentation, EPA has determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the area covered under this determination.

This determination is made pursuant to Section 312(f)(3) of Public Law 92–500, as amended by Public Laws 95–217 and 100–4.

PUMPOUT FACILITIES WITHIN THE NO DISCHARGE AREAS

[Revere, Saugus, Lynn, Nahant, and Swampscott]

Name	Location	Contact info.	Hours	Mean low water depth
Seaport Landing Marina	Lynn Harbor	781–592–5821 VHF 9,13,16	8am–7pm April 15–Nov. 1	20 ft.
Revere Harbormaster	Revere	207–967–2511 VHF 9	On Call	NA.

Dated: February 24, 2009.

Ira W. Leighton,

Acting Regional Administrator, New England Region.

[FR Doc. E9–5878 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2007–0484; FRL–8782–8]

Board of Scientific Counselors, National Center for Environmental Research (NCER) Standing Subcommittee Meeting—2009

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, the Environmental Protection Agency, Office of Research and Development (ORD), gives notice of a meeting of the Board of Scientific Counselors (BOSC) National Center for Environmental Research (NCER) Standing Subcommittee.

DATES: The meeting (a teleconference call) will be held on Thursday, April 16, 2009 from 10 a.m. to 12 noon. All times noted are eastern time. The meeting may adjourn early if all business is finished. Requests for the draft agenda or for making oral presentations at the conference call will be accepted up to 1 business day before the meeting.

ADDRESSES: Participation in the meeting will be by teleconference only—meeting rooms will not be used. Members of the public may obtain the call-in number and access code for the call from Susan Peterson, whose contact information is listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice. Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2007–0484, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Send comments by electronic mail (e-mail) to: *ORD.Docket@epa.gov*, Attention Docket ID No. EPA–HQ–ORD–2007–0484.
- *Fax:* Fax comments to: (202) 566–0224, Attention Docket ID No. EPA–HQ–ORD–2007–0484.
- *Mail:* Send comments by mail to: Board of Scientific Counselors, National Center for Environmental Research (NCER) Standing Subcommittee—2007 Docket, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–ORD–2007–0484.
- *Hand Delivery or Courier.* Deliver comments to: EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. EPA–HQ–ORD–2007–0484.

Note: This is not a mailing address. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2007–0484. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA

recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Board of Scientific Counselors, National Center for Environmental Research (NCER) Standing Subcommittee—2007 Docket, EPA/DC, EPA West, Room B102, 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, and the telephone number for the ORD Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer via mail at: Susan Peterson, Mail Code 8104–R, Office of Science Policy, Office of Research and Development, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via phone/voice mail at: (202) 564–1077; via fax at: (202) 565–2911; or via e-mail at: *peterson.susan@epa.gov*.

SUPPLEMENTARY INFORMATION:

General Information

Participation in the meeting will be by teleconference only—meeting rooms will not be used. Members of the public who wish to obtain the call-in number and access code to participate in the conference call may contact Susan Peterson, the Designated Federal Officer, via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section above, by 4 working days prior to the conference call.

The purpose of the meeting is to discuss the subcommittee's draft letter report. Proposed agenda items for the conference call include, but are not limited to: discussion of action items that resulted from the February 2–3, 2009 face to face meeting, and subcommittee responses to the charge questions. The conference call is open to the public.

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Susan Peterson at (202) 564–1077 or *peterson.susan@epa.gov*. To request accommodation of a disability, please contact Susan Peterson, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: March 11, 2009.

Fred Hauchman,

Director, Office of Science Policy.

[FR Doc. E9–5872 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8782–9]

Science Advisory Board Staff Office; Notification of a Public Advisory Committee Meeting of the Clean Air Scientific Advisory Committee (CASAC); Sulfur Oxides Primary NAAQS Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting of the Clean Air Scientific Advisory Committee's (CASAC) Sulfur Oxides Primary NAAQS Review Panel (Panel) to conduct a peer review of the EPA's *Risk and Exposure Assessment to Support the Review of the SO_2 Primary National Ambient Air Quality Standards: Second Draft.*

DATES: The meeting will be held from 8:30 a.m. (Eastern daylight time) on Thursday, April 16, 2009 through 1 p.m. (Eastern daylight time) on Friday, April 17, 2009.

ADDRESSES: The April 16–17, 2009 meeting will take place at the Sheraton Chapel Hill Hotel, One Europa Drive, Chapel Hill, NC 27517.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes to submit a written or brief oral statement (five minutes or less) or wants further information concerning this meeting must contact Dr. Angela Nugent, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail (202) 343–9981; fax (202) 233–0643; or e-mail at *nugent.angela@epa.gov*. General information concerning the CASAC and the CASAC documents cited below can be found on the EPA Web site at *http://www.epa.gov/casac*.

SUPPLEMENTARY INFORMATION:

Background: The Clean Air Scientific Advisory Committee (CASAC) was established under section 109(d)(2) of the Clean Air Act (CAA or Act) (42 U.S.C. 7409) as an independent scientific advisory committee. CASAC provides advice, information and recommendations on the scientific and technical aspects of air quality criteria and national ambient air quality standards (NAAQS) under sections 108 and 109 of the Act. The CASAC is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The Panel will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality criteria and the NAAQS for the six ''criteria'' air pollutants, including sulfur oxides (SO_X). EPA is in the process of reviewing the primary NAAQS for sulfur dioxide (SO_2), an indicator for SO_X. Primary standards set limits to protect public health, including the health of ''sensitive'' populations such as asthmatics, children, and the elderly.

CASAC has previously provided consultative advice on EPA's *Integrated Plans for Review of the Primary NAAQS for NO_2 and SO_2* and conducted peer review of the first and second drafts of EPA's *Integrated Science Assessment for Sulfur Oxides—Health Criteria*. CASAC also provided consultative advice on EPA's *Sulfur Dioxide Health Assessment Plan: Scope and Methods for Exposure and Risk Assessment* and conducted peer review of EPA's *Risk and Exposure Assessment to Support the Review of the SO_2 Primary National Ambient Air Quality Standards: First Draft.* The CASAC advisory reports are available on the EPA Web site at *http://www.epa.gov/casac*. The purpose of this meeting is for CASAC to conduct a peer review of the *Risk and Exposure Assessment to Support the Review of the SO_2 Primary National Ambient Air Quality Standards: Second Draft.*

Technical Contact: Any questions concerning EPA's *Risk and Exposure*

Assessment to Support the Review of the SO_2 Primary National Ambient Air Quality Standards: Second Draft should be directed to Dr. Michael Stewart, OAR by telephone (919) 541–7524, or e-mail *stewart.michael@epa.gov*.

Availability of Meeting Materials: EPA–OAR's *Risk and Exposure Assessment to Support the Review of the SO_2 Primary National Ambient Air Quality Standards: Second Draft* will be accessible via the Agency's Office of Air Quality Planning and Standards Web site at *http://www.epa.gov/ttn/naaqs/standards/so2/s_so2_cr_rea.html* on or about March 19, 2009. Agendas and materials supporting the meeting will be placed on the EPA Web site at *http://www.epa.gov/casac* before the meeting.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the CASAC Panel to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker, with no more than a total of one hour for all speakers. Interested parties should contact Dr. Angela Nugent, DFO, in writing (preferably via e-mail) by April 10, 2009 at the contact information noted above to be placed on the public speaker list for this meeting. *Written Statements:* Written statements for the public meeting should be received by Dr. Angela Nugent at the contact information above by April 10, 2009, so that the information may be made available to the Panel for their consideration prior to this meeting. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature (optional), and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Nugent at the phone number or e-mail address noted above, preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: March 11, 2009.

Anthony F. Maciorows,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E9–5870 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0190; FRL–8407–1]

National Bed Bug Summit; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is planning a meeting to be held on April 14 through April 15, 2009, on the topic of bed bug resurgence in the United States. The aim of the session will be to share information and knowledge on the topic of bed bugs and their newfound resurgence, provide a venue to identify ideas and opinions for their control, and develop recommendations as how affected stakeholders, communities, and local jurisdictions can begin to address the emerging nationwide bed bug problem. The agenda for this meeting is under development and will be posted on our website in advance of the meeting and also placed in the docket for this meeting.

DATES: The meeting will be held on April 14 and 15, 2009, from 9 a.m. to 6 p.m. on the first day, and from 9 a.m. to noon on the last day.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held in the EPA East Building at 12th and Constitution Ave., NW., Washington, DC. For directions, go to: *http://www.epa.gov/epahome/hq.htm*.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 306–0404; fax number: (703) 308–0029; e-mail address: *angulo.karen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of particular interest to persons who work in agricultural settings or persons who are concerned about implementation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); the Federal Food, Drug, and Cosmetic Act (FFDCA); and the amendments to both of these major pesticide laws by the Food Quality Protection Act (FQPA) of 1996. Potentially affected entities may include, but are not limited to: Agricultural workers and farmers; pesticide industry and trade associations; environmental, consumer, and farmworker groups; pesticide users and growers; pest consultants; State, local, and Tribal governments; academia; public health organizations; food processors; and the public. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket ID number EPA–HQ–OPP–2009–0190. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Background

The resurgence of the common bed bug is increasingly reaching levels that are critical and affecting all areas of the country. As this resilient pest has become a nationwide problem affecting hotels, universities, and homes in the general population, it is important that the EPA assist in exploring means of effectively identifying challenges and ways to remedy this pest concern. Potential participants for this forum include Federal, State, and local government agencies responsible for public health and public housing; researchers and academicians; health, housing and environmental advocacy organizations; the pest management industry; pesticide manufacturers; and other interested parties. All interested parties are encouraged to participate and share in the development of strategies to address the national bed bug dilemma. However, due to space limitations, registration is limited to 135 participants.

III. How Can I Request to Participate in this Meeting?

The National Bed Bug Summit meeting is open to the public and seating is available on a first come basis. Persons interested in attending do not need to register in advance of the meeting and there is no registration fee. Further information on the location of the meeting, please view the Agency's website at *http://www.epa.gov/epahome/hq.htm*. Lodging and transportation are not being provided.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests, Public health.

Dated: March 10, 2009.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E9–5863 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0162; FRL–8403–6]

Carbofuran; Product Cancellation Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellation of some registrations and termination of certain uses, voluntarily requested by the registrant and accepted by the Agency, of products containing the pesticide carbofuran, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This cancellation order follows a December 19, 2008 (73 FR 77690; FRL–8389–4) **Federal Register** Notice of Receipt of Request from the carbofuran registrant to voluntarily cancel some registrations and terminate uses of certain end-use products containing the pesticide carbofuran. These are not the last carbofuran products registered for use in the United States. In the December 19, 2008 notice, EPA indicated that it would issue an order implementing the cancellations and amendments to terminate uses, unless the Agency received substantive comments within the 30–day comment period that would merit its further review of these requests, or unless the registrant withdrew their request within this period. The Agency received two anonymous comments on the notice, but neither merited further review of the requests. Further, the registrant did not withdraw their request, but submitted a letter clarifying the product registrations that they intended to cancel. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations and use terminations. Any distribution, sale, or use of the carbofuran products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations are effective March 18, 2009.

FOR FURTHER INFORMATION CONTACT: Jude Andreasen, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9342; fax number: (703) 308–7070; e-mail address: *andreasen.jude@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2005–0162 Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. What Action is the Agency Taking?

This notice announces the cancellation and use terminations, as requested by registrants, of certain end-use carbofuran products registered under sections 3 and 24c of FIFRA. This order terminates flowable carbofuran use in or on alfalfa, cotton, ornamentals, popcorn, small grains (wheat, oats, and barley), soybeans, sugarcane, sweet corn, and tobacco. This order terminates carbofuran products registered under FIFRA section 24 Special Local Need Labels for use in or on corn (field), CRP acres, cucumbers, grapes, melons, ornamentals (container and field production), peppers (including Chiles and bell), sorghum, squash, sugar beets, sugarcane (soil applied), tobacco, and small grains (wheat, oats and barley). The order also terminates, subject to a 2–year phase-out period, the use of flowable carbofuran as a post-plant application to artichokes. The order terminates use of granular carbofuran on bananas, coffee, cucumbers, melons, and squash.These registrations are listed in sequence by registration number in Tables 1A, 1B, and 1C of this unit.

TABLE 1A—CARBOFURAN AMENDMENTS TO TERMINATE CERTAIN USES

Registration No.	Product Name	Company
279–2876	Furadan 4F	FMC Corporation
279–3310	Furadan LFR	FMC Corporation
279–2712	Furadan 10G	FMC Corporation
279–3023	Furadan 15G	FMC Corporation

TABLE 1B—CARBOFURAN PRODUCT CANCELLATION

Registration No.	Product Name	Company
279–2922	Furadan 5G	FMC Corporation

TABLE 1C—CARBOFURAN SPECIAL LOCAL NEED (SLN) PRODUCT CANCELLATIONS

Registration No.	Company
Registration No.	Company
AL880003	FMC Corporation
AL940002	FMC Corporation
AR810051	FMC Corporation
AR810052	FMC Corporation
AZ910001	FMC Corporation
CA830058	FMC Corporation
CA940005	FMC Corporation
CA980011	FMC Corporation
CA980012	FMC Corporation
CO920002	FMC Corporation
DE830004	FMC Corporation
DE930001	FMC Corporation
IA930001	FMC Corporation
ID060004	FMC Corporation
ID920002	FMC Corporation
IL040002	FMC Corporation
IL980003	FMC Corporation
IN830001	FMC Corporation
IN930001	FMC Corporation
KS880001	FMC Corporation
KS880002	FMC Corporation
LA000009	FMC Corporation
LA050001	FMC Corporation
LA990007	FMC Corporation
MD810008	FMC Corporation
MI820025	FMC Corporation
MI930001	FMC Corporation
MO790006	FMC Corporation
MO810024	FMC Corporation
MO860003	FMC Corporation
MO930002	FMC Corporation
MS820020	FMC Corporation
MT860007	FMC Corporation
NC800003	FMC Corporation

TABLE 1C—CARBOFURAN SPECIAL LOCAL NEED (SLN) PRODUCT CANCELLATIONS—Continued

Registration No.	Company
NE880003	FMC Corporation
NE920006	FMC Corporation
NE920009	FMC Corporation
NE950001	FMC Corporation
NJ980004	FMC Corporation
NM060001	FMC Corporation
NM060002	FMC Corporation
NM780015	FMC Corporation
NM980002	FMC Corporation
OH930001	FMC Corporation
OK810012	FMC Corporation
OK930009	FMC Corporation
OR060016	FMC Corporation
OR830016	FMC Corporation
OR830036	FMC Corporation
OR920014	FMC Corporation
PA840005	FMC Corporation
PA940001	FMC Corporation
PR850001	FMC Corporation
PR960003	FMC Corporation
SC790026	FMC Corporation
SC940005	FMC Corporation
SD900013	FMC Corporation
TX030002	FMC Corporation
TX060012	FMC Corporation
TX060013	FMC Corporation
TX810006	FMC Corporation
TX930008	FMC Corporation
TX930011	FMC Corporation
VA780006	FMC Corporation
VA790014	FMC Corporation
VA930001	FMC Corporation
WY030002	FMC Corporation
WY900003	FMC Corporation

Table 2 of this unit includes the name and address of record for the registrant of the product listed in Tables 1A, 1B, and 1C of this unit.

TABLE 2—REGISTRANT OF CANCELLED AND AMENDED CARBOFURAN PRODUCTS

EPA Company No.	Company name and address
279	FMC Corporation Agricultural Products Group 1735 Market St. Philadelphia, PA 19103

III. Summary of Public Comments Received and Agency Response to Comments

Two anonymous comments opposed the registration of any toxic chemicals. The carbofuran registrant commented that the December 19, 2008 **Federal Register** notice mistakenly included several Special Local Need (SLN) carbofuran registrations that the registrant did not intend to voluntarily cancel. Consequently, EPA has removed the following SLN registrations from the list of those being voluntarily cancelled: CA860037, CO920001, ID060003, ID910007, OR060017, OR910006, WA860012, and WA910006. Accordingly, the Agency does not believe that the comments submitted during the comment period merit further changes to the requested cancellations, or a denial of the requests for voluntary cancellation and use termination.

IV. Cancellation Order

Pursuant to FIFRA section 6(f), EPA hereby approves the requested cancellations and use deletions of carbofuran registrations identified in Tables 1A, 1B, and 1C of Unit II. Accordingly, the Agency orders that the carbofuran product registrations identified in Tables 1A, 1B, and 1C of Unit II. are hereby canceled and terminated. Any distribution, sale, or use of existing stocks of the products identified in Tables 1A, 1B, and 1C of Unit II. in a manner inconsistent with any of the Provisions for Disposition of Existing Stocks set forth in Unit VI. will be considered a violation of FIFRA.

V. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish

a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The cancellation order issued in this notice includes the following existing stocks provisions.

For the products identified or referenced in Tables 1A, 1B, and 1C of Unit II. the registrant will be allowed to sell and distribute the subject products through the effective date of this cancellation order, March 18, 2009. In addition, existing stocks of carbofuran products may be sold or used until they are depleted, or until the effective date for the revocation of the associated tolerances.

Consistent with EPA's prior determinations, the Agency continues to intend to allow use on artichokes through December 31, 2010. No comments were received on whether there are sufficient stocks of product to allow for this use, and the Agency therefore concludes that no additional carbofuran production will be needed to address this use.The existing stocks provision included in a **Federal Register** notice published December 10, 2008, (73 FR 75105; FRL–8393–7) regarding several carbofuran products is superseded by the existing stocks provisions in this cancellation order.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: February 6, 2009.

Richard P. Keigwin, Jr.,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E9–5833 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0525; FRL–8398–4]

Carbaryl; Amending Product Registrations to Terminate Uses and Eliminate Certain Application Methods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the amendments to terminate uses and eliminate certain application methods, voluntarily requested by the registrants and accepted by the Agency, of products containing the pesticide carbaryl, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This order follows two **Federal Register** Notices of Receipt of Requests dated August 20, 2008 and October 15, 2008, respectively, from the carbaryl registrants to voluntarily terminate certain uses of and eliminate certain application methods for their carbaryl product registrations. These are not the last carbaryl products registered for use in the United States. In the August 20 and October 15, 2008 Notices, EPA indicated that it would issue an order implementing the amendments to terminate uses, unless the Agency received substantive comments within the 30–day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests within this period. The Agency received five comments on the notice but none merited further review of the requests. Further, the registrants did not withdraw their requests. Accordingly, EPA hereby issues in this notice an order granting the requested amendments to terminate uses and eliminate certain application methods. Any distribution, sale, or use of the carbaryl products subject to this order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The termination of uses and elimination of application methods for carbaryl products specified in this notice are effective April 17, 2009.

FOR FURTHER INFORMATION CONTACT: Christina Scheltema, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–2201; fax number: (703) 308–8005; e-mail address: *scheltema.christina@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0525. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. What Action is the Agency Taking?

This notice announces the amendment to terminate uses and eliminate certain application methods for carbaryl products, as requested by registrants, of certain end-use and/or manufacturing-use carbaryl products registered under section 3 of FIFRA. These registrations are listed in sequence by registration number in Tables 1 and 2 of this unit.

TABLE 1—CARBARYL PRODUCT REGISTRATIONS AMENDED TO TERMINATE USES OR ELIMINATE CERTAIN APPLICATION METHODS

EPA Registration Number	Product Name	Uses Being Terminated and/or Application Methods Being Eliminated
239–1349	Ortho Sevin® 5 Dust	Poultry and poultry premises; domestic pets and premises
239–2181	Ortho Sevin® Garden Dust	Domestic Pets and Premises; succulent/fresh beans and peas (subgroup 6B)
239–2514	Get-A-Bug Snail, Slug and Insect Killer	Succulent/fresh beans and peas (subgroup 6B); leafy vegetables (except Brassica vegetables)
239–2628	Ortho Sevin® Liquid Brand Carbaryl Insecticide Formula II	Succulent/fresh beans and peas (subgroup 6B); poultry and poultry premises
264–315	Sevin® Brand 85 Sprayable Carbaryl Insecticide	Pea and bean, succulent shelled (subgroup 6B); millet; wheat; preplant root dip for sweet potato; dip drench for nursery stock, vegetable transplants, bedding plants, and foliage plants; ULV application for adult mosquito control; outdoor pet sleeping quarters
264–316	SEVIN® 80 Solupak	Pea and bean, succulent shelled (subgroup 6B); millet; wheat; preplant root dip for sweet potato; dip/drench for nursery stock, vegetable transplants, bedding plants, and foliage plants; ULV application for adult mosquito control ; outdoor pet sleeping quarters
264–328	Sevin® Brand 80%Dust Base	Agricultural uses
264–333	SEVIN® brand XLR PLUS Carbaryl Insecticide	Pea and bean, succulent shelled (subgroup 6B); millet; wheat; preplant root dip for sweet potato; dip/drench for nursery stock, vegetable transplants, bedding plants, and foliage plants; ULV application for adult mosquito control; outdoor pet sleeping quarters
264–334	SEVIN® brand RP2 Carbaryl Insecticide	Pea and bean, succulent shelled (subgroup 6B); preplant root dip for sweet potato; outdoor pet sleeping quarters; liquid broadcast use for residential lawns
264–335	SEVIN® brand RP4 Carbaryl Insecticide	Pea and bean, succulent shelled (subgroup 6B); millet; wheat; preplant root dip for sweet potato; preplant root dip/drench for nursery stock, vegetable transplants, bedding plants, and foliage plants; ULV application for adult mosquito control; outdoor pet sleeping quarters; liquid broadcast use for residential lawns
264–349	SEVIN® brand 4F Carbaryl Insecticide	Pea and bean, succulent shelled (subgroup 6B); millet; wheat; preplant root dip for sweet potato; preplant root dip/drench for nursery stock, vegetable transplants, bedding plants, and foliage plants; ULV application for adult mosquito control; outdoor pet sleeping quarters
264–429	SEVIN® brand Granular Carbaryl Insecticide	Leafy vegetables (except Brassica)
264–526	SEVIN® brand 80 WSP Carbaryl Insecticide	Pea and bean, succulent shelled (subgroup 6B); millet; wheat; preplant root dip for sweet potato; preplant root dip/drench for nursery stock, vegetable transplants, bedding plants, and foliage plants; ULV application for adult mosquito control; outdoor pet sleeping quarters
432–885	SEVIN® Brand Granular Carbaryl Insecticide	Leafy vegetables (except Brassica)
432–982	SEVIN® Brand 97.5% Insecticide	Pea and bean, succulent shelled (subgroup 6B); preplant root dip/ drench treatment for nursery stock, vegetable transplants, bedding plants, and foliage plants
432–1211	AES Carbaryl Insecticide Spray, RTU	Pea and bean, succulent shelled (subgroup 6B)
432–1212	SEVIN® Grub Killer Granules	Leafy vegetables (except Brassica); pea and bean, succulent shelled (subgroup 6B)
432–1213	SEVIN® Granules Ant, Flea, Tick, and Grub Killer	Leafy vegetables (except Brassica); pea and bean, succulent shelled (subgroup 6B)
432–1226	SEVIN® 40WSP Carbaryl Insecticide	Preplant root dip/drench for nursery stock, vegetable transplants, bedding plants, and foliage plants; outdoor pet sleeping quarters; liquid broadcast use on residential lawns

TABLE 1—CARBARYL PRODUCT REGISTRATIONS AMENDED TO TERMINATE USES OR ELIMINATE CERTAIN APPLICATION METHODS—Continued

EPA Registration Number	Product Name	Uses Being Terminated and/or Application Methods Being Eliminated
432–1227	SEVIN® SL Carbaryl Insecticide	Outdoor pet sleeping quarters; liquid broadcast use on residential lawns
432–1237	BES Garden Dust 10%	Pea and bean, succulent shelled (subgroup 6B)
432–1238	AES Carbaryl Insecticide Spray–RTU	Pea and bean, succulent shelled (subgroup 6B)
432–1239	BES Garden Dust 5%	Bean succulent shelled
432–1244	AES SEVIN® Granules Ant, Flea, Tick, and Grub Killer (1% Sevin)	Leafy vegetables (except Brassica)
769–574	Suregard Brand Sevin® 80S Carbaryl Insecticide	Pea and bean, succulent shelled (subgroup 6B); preplant root dip (sweet potato); wheat
769–728	Sevin® Brand Carbaryl Insecticide 5% Turf Insecticide Granules	Pea and bean, succulent shelled (subgroup 6B); leafy vegetables (except Brassica)
769–971	Sevin® Brand 80% DB	Pea and bean, succulent shelled (subgroup 6B); preplant root dip (sweet potato); use of dust formulations in/on agricultural crops; wheat
769–972	Security Brand 50% Sevin® Wettable	Pea and bean, succulent shelled (subgroup 6B)
769–976	Sevin® Brand Carbaryl Insecticide 2% Granular Insecticide	Leafy vegetables (except Brassica)
829–128	SA–50 Brand Sevin® 5% Dust	Direct application to domestic pets or dwellings; Succulent/fresh peas and beans (subgroup 6B); all agricultural uses
829–285	Cutworm and Cricket Bait	Succulent/fresh peas and beans (subgroup 6B); leafy vegetables (except Brassica vegetables)
2935–366	Wilbur-Ellis Sevin® 5 Bait	Wheat; peas and beans, succulent or fresh (subgroup 6B); leafy vegetables (except Brassica vegetables)
5887–43	Black Leaf Sevin® Brand Carbaryl Insecticide	Pea and bean, succulent shelled (subgroup 6B); direct applications to domestic animals (dogs and cats) and their dwellings/premises
5905–251	Helena Sevimol 4 Carbaryl Insecticide	Pea and bean, succulent shelled (subgroup 6B)
7401–38	Ferti-Lome Liquid Sevin® Home Garden Spray	Pea and bean, succulent (fresh) shelled (subgroup 6B)
7401–69	Ferti-Lome Garden Dust	Pea and bean, succulent (fresh) shelled (subgroup 6B); direct applications to domestic pets or pet premises (indoor or outdoor)
7401–166	Hi-Yield 10% Carbaryl Garden Dust	Pea and bean, succulent (fresh) shelled (subgroup 6B); domestic pets or pet premises (indoor or outdoor)
8119–5	Corry's Slug, Snail and Insect Killer	Leafy vegetables (except Brassica)
9198–146	The Andersons 8.0% Granular Carbaryl	Peas and beans, succulent or fresh (subgroup 6B); leafy vegetables (except Brassica)
9198–223	The Andersons Insect Killer Granules with 2.0% Carbaryl	Peas and beans, succulent or fresh (subgroup 6B); leafy vegetables (except Brassica)
11656–21	Coastox Carbaryl Cutworm Bait	Pea and bean, succulent shelled (subgroup 6B); leafy vegetables (except Brassica)
19713–49	Drexel Carbaryl 4L	Succulent beans and peas; preplant dip for sweet potato; wheat; millet; dip or drench treatment to nursery stock or transplants, etc; indoor uses; ULV mosquito adulticide; all applications using backpack sprayers

TABLE 1—CARBARYL PRODUCT REGISTRATIONS AMENDED TO TERMINATE USES OR ELIMINATE CERTAIN APPLICATION METHODS—Continued

EPA Registration Number	Product Name	Uses Being Terminated and/or Application Methods Being Eliminated
19713–50	Drexel Carbaryl 80S	Succulent beans and peas; preplant root dip for sweet potato; wheat; millet; poultry or poultry premises; seedling dip/drench for nursery stock; pet premises; pet sleeping quarters; ULV mosquito adulticide; all applications using backpack sprayers
19713–53	Drexel Carbaryl 10D	All agricultural uses; succulent beans and peas
19713–75	Drexel Carbaryl Technical	Succulent beans and peas; proso millet
19713–89	Carbaryl 2L	Succulent beans and peas; preplant dip for sweet potato; indoor applications; ULV mosquito adulticide; all applications using backpack sprayers
19713–212	Carbaryl 10D	Dust for agricultural use; cotton; succulent beans; poultry; dogs; cats (household pets)
19713–213	Carbaryl 5D	All agricultural uses; succulent beans and peas
19713–244	Carbaryl 80 Dust Base	Succulent peas and beans, (subgroup 6B); wheat; millet; poultry; dogs and pets; all indoor uses (domestic dwellings, residential and commercial, barns); formulation into products for dip or drench treatments
19713–363	Carbaryl 85 Sprayable	Succulent beans and peas; preplant dip for sweet potato; root dip or drench treatments; ULV mosquito adulticide; all applications using backpack sprayers
34704–289	10% Sevin® Granules	Pea and bean, succulent shelled (subgroup 6B); leafy vegetables (except Brassica)
34704–447	Carbaryl 4L	Pea and bean, succulent shelled (subgroup 6B); millet; wheat; preplant root dip for sweet potato; seedling dips or drenches; all indoor applications
71096–15	Bonide Snail, Slug and Sowbug Bait	Pea and bean, succulent shelled (subgroup 6B); leafy vegetables (except Brassica)
82200–1	Turf and Garden Seven®% Granular Carbaryl Insecticide	Leafy vegetables (except Brassica)

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number.

TABLE 2—REGISTRANTS OF CANCELLED AND/OR AMENDED [CARBARYL PRODUCTS

EPA Company Number	Company Name and Address
239	The Ortho Business Group, c/o The Scotts Company LLC P.O. Box 190 Marysville, Ohio 43040
264	Bayer CropScience PO Box 12014 Research Triangle Park, NC 27709

TABLE 2—REGISTRANTS OF CANCELLED AND/OR AMENDED [CARBARYL PRODUCTS—Continued

EPA Company Number	Company Name and Address
432	Bayer Environmental Science 2 TW Alexander Drive, PO Box 12014 Research Triangle Park, NC 27709
769	Value Gardens Supply 9100 W. Bloomington Freeway, Suite 113 Bloomington, MN 55431
829	Southern Agricultural Insecticides, Inc. P.O. Box 218 Palmetto, Florida 34220
2935	Wilbur Ellis Company P.O. Box 1286 Fresno, California 93715

TABLE 2—REGISTRANTS OF CANCELLED AND/OR AMENDED [CARBARYL PRODUCTS—Continued

EPA Company Number	Company Name and Address
5887	Value Gardens Supply 9100 W. Bloomington Freeway, Suite 113 Bloomington, MN 55431
5905	Helena Chemical Company 225 Schilling Boulevard, Ste. 300 Collierville, Tenneesee 38017
7401	Voluntary Purchasing Groups, Inc. P.O. Box 460, 230 FM 87 Bonham, Texas 75418

TABLE 2—REGISTRANTS OF CANCELLED AND/OR AMENDED [CARBARYL PRODUCTS—Continued

EPA Company Number	Company Name and Address
8119	Matson, LLC c/o Registrations by Design, Inc. 118 1/2 East Main Street, Ste. 1 Salem, Virginia 24153–3805
9198	The Andersons Lawn Fertilizer Division, Inc. P.O. Box 119 Maumee, Ohio 43537
11656	Western Farm Service, Inc. 2787 W. Bullard, Suite 105 Fresno, California 93711
19713	Drexel Chemical Company 1700 Channel Avenue PO Box 13327 Memphis, TN 38113–0327
34704	Loveland Products, Inc. 7251 W 4th Street (80634) PO Box 1286 Greely, CO 80632–1286
71096	Or-Cal, Inc. 17220 Westview Road Oswego, Oregon 97034
82200	Viachem, LLC 9701 Fields Road, No. 2400 Gaithersburg, Maryland 20878

III. Summary of Public Comments Received and Agency Response to Comments

EPA received four public comments on the August 20, 2008 6(f) Notice (73 FR 49184) and one comment on the October 15 6(f) Notice (73 FR 61121), from Jan Meneley of AgBio Inc., Dr. Steven Booth of Willapa Bay/Grays Harbor Oyster Grower Association, C. Weeber, a private citizen, and from two anonymous private citizens. The comment from C. Weeber requested that EPA evaluate carbaryl use on pine trees in residential areas, which is not one of the uses being deleted, and is therefore not relevant to this action. The comment from Steven Booth focused on the importance of a special local need registration of carbaryl for control of burrowing shrimp in oyster beds in Willapa Bay, WA, which is also not one of the registrations being amended, and is therefore not relevant to this action. The comments received from private citizens requested cancellation of all carbaryl uses, including use to control Mountain Pine Beetle in Colorado, and further testing of carbaryl. These commenters do not, however, object to the deletion of uses or elimination of application methods that are the subject of this order. Nor do these commenters provide information that would lead the Agency to further review or deny the requests. Accordingly, the Agency does not believe that the comments submitted during the comment period merit further review or a denial of the requests for amendments to terminate uses of and eliminate certain application methods for carbaryl products.

IV. Cancellation Order

Pursuant to FIFRA section 6(f), EPA hereby approves the requested amendments to terminate uses of and eliminate certain application methods for carbaryl registrations identified in Table 1 of Unit II. Accordingly, the Agency orders that the carbaryl product registrations identified in Tables 1 of Unit II. are hereby amended to terminate the affected uses and application methods. Any distribution, sale, or use of existing stocks of the products identified in Table 1 of Unit II. in a manner inconsistent with any of the Provisions for Disposition of Existing Stocks set forth in Unit VI. will be considered a violation of FIFRA.

V. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation or termination action. The existing stocks provisions of this order terminating uses and eliminating certain application methods are as follows and are effective immediately.

Provided that these stocks bear labels previously approved by EPA, registrants may sell and distribute existing stocks of the affected products for 18 months from the effective date of this order, with the exception of Scotts Ortho Business Group and Matson LLC, who may sell and distribute existing stocks of EPA Registration Numbers 239–2514 and 8119–5, respectively, in Table 1 of Unit II. for 24 months from the effective date of this order. Thereafter the distribution and sale of existing stocks by registrants of any of the products listed in Table 1 that bear the terminated uses or application methods will not be lawful under FIFRA, except for the purposes of shipping such stocks for export consistent with section 17 of FIFRA or for proper disposal. This order allows persons other than the registrant to continue to sell and/or use existing stocks of canceled products until such stocks are exhausted, provided that such use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled product. This order specifically prohibits any use of existing stocks that is not consistent with such previously approved labeling.

List of Subjects

Environmental protection, Pesticides and pests, Carbaryl, SEVIN®.

Dated: February 27, 2009.

Richard P. Keigwin, Jr.,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E9–5695 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8779–5]

Public Water System Supervision Program Revision for the State of Arkansas

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Notice of proposed approval.

SUMMARY: Notice is hereby given that the State of Arkansas is revising its approved Public Water System Supervision Program adopting regulations for the Ground Water Rule (GWR), promulgated by EPA on November 26, 2006. The GWR will provide for increased protection against microbial pathogens in public water systems that use ground water sources. EPA has determined that the proposed GWR revisions are no less stringent than the corresponding Federal regulations.

Therefore, EPA proposes to approve these program revisions.

DATES: All interested parties may request a public hearing. A request for a public hearing must be submitted by April 17, 2009 to the Regional Administrator at the EPA Region 6 address shown below. Requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by April 17, 2009, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective on April 17, 2009. Any request for a public hearing shall include the following information: the name, address, and telephone number of the individual, organization, or other entity requesting a hearing; a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; and the signature of the individual making the request or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices: Arkansas Department of Health, Division of Engineering, 4815 West Markham, Little Rock, Arkansas 72205; and the EPA Region 6, Drinking Water Section (6WQ–SD), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202.

FOR FURTHER INFORMATION CONTACT: Amy Camacho, EPA Region 6, Drinking Water Section at the Dallas address given above or at telephone (214) 665–7175, or *camacho.amy@epa.gov*.

Authority: Section 1413 of the Safe Drinking Water Act, as amended (1996), 40 CFR parts 141 and 142 of the National Primary Drinking Water Regulations.

Dated: February 27, 2009.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. E9–5841 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0135; FRL–8407–3]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by September 14, 2009 or April 17, 2009 for registrations for which the registrant requested a waiver of the 180–day comment period, orders will be issued canceling these registrations. The Agency will consider withdrawal requests postmarked no later than September 14, 2009 or April 17, 2009, whichever is applicable. Comments must be received on or before September 14, 2009 or April 17, 2009, for those registrations where the 180–day comment period has been waived.

ADDRESSES: Submit your comments and your withdrawal request, identified by docket identification (ID) number EPA–HQ–OPP–2009–0135, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. Please direct written withdrawal requests to the attention of: John Jamula, Information Technology and Resources Management Division (7502P).

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2009–0135. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: John Jamula, Information Technology and Resources Management Division, Office

of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6426; e-mail address: *jamula.john@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

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

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to cancel 411 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in Table 1 of this unit:

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration no.	Product Name	Chemical Name
000004–00333	Bonide Slug, Snail & Sowbug Bait	Metaldehyde
		Carbaryl
000004–00334	Bonide Slug and Snail Beater	Metaldehyde
000004–00351	Last Slime Slug-N-Snail Beater Rtu	Metaldehyde
000004–00352	Bonide Last Slime Slug-N-Snail Beater	Metaldehyde
000004–00442	N-Slugs-N-Snails	Metaldehyde
000004–00451	Bonide Snail-N- Slug Beater	Metaldehyde
000004–00452	N-Snails-N-Slugs	Metaldehyde
000004–00453	Bonide Snail-N- Slug Beater Concentrate	Metaldehyde
000100–00968	Centric	Thiamethoxam
000100–01068	Force Granular Ornamental Insecticide	Tefluthrin
000100–01188	R & M Permethrin .25% Spray	Permethrin
000100–01189	Cp Permethrin .20% Spray	Permethrin
000100–01205	Prevel D	Permethrin
		Azoxystrobin
000100–01267	Outplay	Mesotrione
		Mesotrione
000100 AZ–03–0013	Impasse Termite Blocker	lambda-Cyhalothrin
000100 CA–06–0024	Mertect 340–F	Thiabendazole
000100 ID–01–0005	Discover Herbicide	Clodinafop-propargyl (CAS Reg. No.105512–06–9)

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
000100 ID–04–0002	Platinum Ridomil Gold	Thiamethoxam
		D-Alanine, N-(2,6-dimethylphenyl)-N-(methoxyacetyl)-, methyl ester
000100 ID–04–0012	Mertect (r) 340–F Fungicide	Thiabendazole
000100 ID–04–0013	Mertect (r) 340–F Fungicide	Thiabendazole
000100 MS–99–0003	Prelude Termiticide/insecticide	Permethrin
000100 MT–05–0001	Mertect (r) 340–F Fungicide	Thiabendazole
000100 ND–03–0009	Platinum Ridomil Gold	Thiamethoxam
		D-Alanine, N-(2,6-dimethylphenyl)-N-(methoxyacetyl)-, methyl ester
000100 ND–04–0008	Mertect (r) 340–F Fungicide	Thiabendazole
000100 NE–04–0002	Mertect 340–F Fungicide	Thiabendazole
000100 NV–01–0004	Tilt Fungicide	Propiconazole
000100 OR–05–0001	Dual Magnum	S-Metolachlor
000100 OR–05–0029	Quadris Flowable Fungicide	Azoxystrobin
000100 PA–03–0003	Dual Magnum Herbicide	S-Metolachlor
000100 PA–03–0006	Dual Magnum Herbicide	S-Metolachlor
000100 PA–99–0003	Dual Magnum Herbicide	S-Metolachlor
000100 UT–02–0001	Discover Herbicide	Clodinafop-propargyl (CAS Reg. No.105512–06–9)
000100 WA–01–0010	Discover Herbicide	Clodinafop-propargyl (CAS Reg. No.105512–06–9)
000100 WA–04–0037	Mertect 340–F Fungicide	Thiabendazole
000100 WA–04–0038	Mertect (r) 340–F Fungicide	Thiabendazole
000100 WA–99–0033	Dual Magnum Herbicide	S-Metolachlor
000100 WY–02–0002	Discover Herbicide	Clodinafop-propargyl (CAS Reg. No.105512–06–9)
000150–00061	An-Tec 110	Phosphoric acid
		Dodecylbenzenesulfonic acid
000192–00118	Dexol Lawn Weed Killer	Benzoic acid, 3,6-dichloro-2-methoxy-, compd with N-methylmethanamine (1:1)
		2,4–D, dimethylamine salt
		Mecoprop, dimethylamine salt
000228–00297	Riverside Veteran (r) Cst Herbicide	Benzoic acid, 3,6-dichloro-2-methoxy-, compd with N-methylmethanamine (1:1)
000228–00307	Riverdale Truce 0.5g Herbicide	Imazapyr
000228–00309	Riverdale Veteran 10g	Dicamba
000241–00385	Pursuit W Herbicide	Ammonium salt of (+/-)-2-(4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl)-5-e
000241–00386	Pursuit W Dg Herbicide	Imazethapyr
000241 AZ–03–0007	Prowl 3.3 EC Herbicide	Pendimethalin
000241 CA–01–0026	Prowl 3.3 EC Herbicide	Pendimethalin

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
000241 CA–06–0021	Prowl H2O Herbicide	Pendimethalin
000241 CO–00–0001	Prowl 3.3 EC Herbicide	Pendimethalin
000241 CO–06–0001	Prowl H2O Herbicide	Pendimethalin
000241 CO–98–0014	Prowl 3.3 EC Herbicide	Pendimethalin
000241 FL–00–0003	Acrobat MZ Fungicide	Mancozeb
		Dimethomorph
000241 FL–06–0001	Clearcast Herbicide	Imazamox
000241 GA–99–0004	Acrobat MZ Fungicide	Mancozeb
		Dimethomorph
000241 ID–06–0006	Prowl H2O Herbicide	Pendimethalin
000241 ID–06–0008	Prowl H2O Herbicide	Pendimethalin
000241 ID–93–0012	Prowl 3.3 EC Herbicide	Pendimethalin
000241 MS–01–0011	Backdraft Herbicide	Glyphosate-isopropylammonium
		Imazaquin
000241 MT–06–0004	Prowl H2O Herbicide	Pendimethalin
000241 MT–93–0003	Prowl 3.3 EC Herbicide	Pendimethalin
000241 NV–06–0002	Prowl H2O Herbicide	Pendimethalin
000241 NV–06–0003	Helena Pendimethalin	Pendimethalin
000241 NV–92–0004	Prowl 3.3 EC Herbicide	Pendimethalin
000241 TX–08–0002	Prowl H2o Herbicide	Pendimethalin
000241 UT–96–0004	Prowl 3.3 EC Herbicide	Pendimethalin
000241 WA–06–0020	Prowl H2O Herbicide	Pendimethalin
000241 WA–07–0002	Prowl H2O Herbicide	Pendimethalin
000241 WY–05–0005	Prowl 3.3 EC Herbicide	Pendimethalin
000241 WY–92–0005	Prowl 3.3 EC Herbicide	Pendimethalin
000264 AL–00–0003	Stratego Fungicide	Propiconazole
		Trifloxystrobin
000264 AL–06–0001	Ignite 280 SL Herbicide	Glufosinate
000264 AR–01–0005	Stratego Fungicide	Propiconazole
		Trifloxystrobin
000264 AZ–01–0003	Buctril 4EC Herbicide	Bromoxynil octanoate
		Heptanoic acid, 2,6-dibromo-4-cyanophenyl ester
000264 AZ–06–0006	Ignite 280 SL Herbicide	Glufosinate
000264 CA–01–0007	Admire 2 Flowable	Imidacloprid
000264 CA–01–0012	Buctril 4EC Herbicide	Bromoxynil octanoate
		Heptanoic acid, 2,6-dibromo-4-cyanophenyl ester
000264 CA–99–0002	Admire 2 Flowable	Imidacloprid

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
000264 CO–02–0001	Balance 4SC Herbicide	Methanone,(5-cyclopropyl-4-isoxazolyl)[2-(methylsulfonyl)-4-(trifluoromethyl)phenyl]-
000264 CO–03–0004	Balance Herbicide	Methanone,(5-cyclopropyl-4-isoxazolyl)[2-(methylsulfonyl)-4-(trifluoromethyl)phenyl]-
000264 DE–02–0002	Stratego Fungicide	Propiconazole
		Trifloxystrobin
000264 GA–01–0002	Stratego Fungicide	Propiconazole
		Trifloxystrobin
000264 ID–05–0001	Rely Herbicide	Glufosinate
000264 ID–05–0009	Stratego Fungicide	Propiconazole
		Trifloxystrobin
000264 ID–90–0003	Gustafson LSP Flowable Fungicide	Thiabendazole
000264 ID–90–0018	Gustafson LSP Flowable Fungicide	Thiabendazole
000264 IN–02–0001	Stratego Fungicide	Propiconazole
		Trifloxystrobin
000264 KS–05–0003	Stratego Fungicide	Propiconazole
		Trifloxystrobin
000264 LA–05–0015	Liberty 280 SL Herbicide	Glufosinate
000264 LA–06–0008	Baythroid XL	beta-cyfluthrin
000264 MD–02–0001	Stratego Fungicide	Propiconazole
		Trifloxystrobin
000264 MI–88–0007	Thiram 50 WP	Thiram
000264 MN–01–0007	Stratego Fungicide	Propiconazole
		Trifloxystrobin
000264 MN–05–0002	Option Corn Herbicide	N,N-Dimethyl-2-?3-(4,6-dimethoxypyrimidin-2-yl)ureidosulfonylU-4-formylaminobenzamide
000264 MO–00–0003	Balance 4SC Herbicide	Methanone,(5-cyclopropyl-4-isoxazolyl)[2-(methylsulfonyl)-4-(trifluoromethyl)phenyl]-
000264 MO–01–0003	Stratego Fungicide	Propiconazole
		Trifloxystrobin
000264 MO–03–0002	Admire 2 Flowable	Imidacloprid
000264 MO–05–0011	Ignite 280 SL Herbicide	Glufosinate
000264 MO–99–0001	Balance Herbicide	Methanone,(5-cyclopropyl-4-isoxazolyl)[2-(methylsulfonyl)-4-(trifluoromethyl)phenyl]-
000264 MS–05–0024	Ignite 280 SL Herbicide	Glufosinate
000264 MS–06–0012	Baythroid XL	beta-cyfluthrin
000264 NC–06–0001	Ignite 280 SL Herbicide	Glufosinate
000264 NC–88–0001	Di-Syston 15% Granular Systemic Insecticide	Disulfoton
000264 NC–92–0011	Di-Syston 15% Granular Systemic Insecticide	Disulfoton

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
000264 ND–04–0009	Stratego Fungicide	Propiconazole
		Trifloxystrobin
000264 ND–05–0003	Option Corn Herbicide	N,N-Dimethyl-2-?3-(4,6-dimethoxypyrimidin-2-yl)ureidosulfonylU-4-formylaminobenzamide
000264 ND–99–0006	Gustafson Lsp Flowable Fungicide	Thiabendazole
000264 NJ–05–0001	Admire 2 Flowable Insecticide	Imidacloprid
000264 NM–03–0001	Admire 2 Flowable	Imidacloprid
000264 OH–02–0001	Stratego Fungicide	Propiconazole
		Trifloxystrobin
000264 OK–02–0002	Stratego Fungicide	Propiconazole
		Trifloxystrobin
000264 OR–07–0021	Mocap EC Nematicide - Insecticide	Ethoprop
000264 OR–90–0002	Gustafson Lsp Flowable Fungicide	Thiabendazole
000264 OR–93–0008	Gustafson Lsp Flowable Fungicide	Thiabendazole
000264 SC–05–0003	Liberty 280 SL Herbicide	Glufosinate
000264 SD–00–0004	Domain	Metribuzin
		Flufenacet
000264 SD–00–0010	Sencor DF 75% Dry Flowable Herbicide	Metribuzin
000264 SD–01–0003	Flufenacet DF Herbicide	Flufenacet
000264 SD–01–0005	Gustafson LSP Flowable Fungicide	Thiabendazole
000264 SD–06–0002	Sencor DF 75% Dry Flowable Herbicide	Metribuzin
000264 SD–99–0001	Balance Herbicide	Methanone,(5-cyclopropyl-4-isoxazolyl)[2-(methylsulfonyl)-4-(trifluoromethyl)phenyl]-
000264 TN–05–0008	Liberty 280 SL Herbicide	Glufosinate
000264 TX–01–0009	Stratego Fungicide	Propiconazole
		Trifloxystrobin
000264 TX–01–0011	Buctril 4EC Herbicide	Bromoxynil octanoate
		Heptanoic acid, 2,6-dibromo-4-cyanophenyl ester
000264 TX–03–0011	Guthion Solupak 50% Wettable Powder Insecticide	Azinphos-Methyl
000264 TX–07–0014	Oberon 4 SC Insecticide/miticide	Spiromesifen
000264 VA–01–0002	Stratego Fungicide	Propiconazole
		Trifloxystrobin
000264 VA–06–0001	Ignite 280 SL Herbicide	Glufosinate
000264 VT–06–0023	Gustafson 42–S Thiram Fungicide	Thiram
000264 WA–03–0015	Stratego Fungicide	Propiconazole
		Trifloxystrobin
000264 WA–03–0022	Axiom DF Herbicide	Metribuzin

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
		Flufenacet
000264 WA–04–0015	Di-Syston 8 Emulsifiable Systemic Insecticide	Disulfoton
000264 WA–90–0029	Gustafson Lsp Flowable Fungicide	Thiabendazole
000264 WI–99–0014	Rovral 4 Flowable Fungicide	Iprodione
000264 WV–07–0001	Provado 1.6 Flowable Insecticide	Imidacloprid
000264 WV–93–0001	Tempo 20 WP	Cyfluthrin
000264 WY–01–0001	Sencor DF 75% Dry Flowable Herbicide	Metribuzin
000264 WY–05–0003	Stratego Fungicide	Propiconazole
		Trifloxystrobin
000279–03127	Biflex 5 T Insecticide	Bifenthrin
000279–03159	Talstar Plant RTU Insecticide/miticide	Bifenthrin
000279 AR–04–0004	Aim EC Herbicide	Carfentrazone-ethyl
000279 AR–07–0001	Command 3ME Microencapsulated Herbicide	Clomazone
000279 AZ–90–0010	Capture 2 EC	Bifenthrin
000279 CO–06–0004	Capture 2 EC Insecticide/miticide	Bifenthrin
000279 GA–04–0006	Aim 2 EC	Carfentrazone-ethyl
000279 IA–04–0001	Mustang Max	Zeta-Cypermethrin
000279 ID–04–0004	Z-Cype 0.8 EC Insecticide	Zeta-Cypermethrin
000279 IL–04–0005	Z-Cype 0.8 EC Insecticide	Zeta-Cypermethrin
000279 LA–04–0009	Aim EC Herbicide	Carfentrazone-ethyl
000279 MN–03–0001	Z-Cype 0.8 EC Insecticide	Zeta-Cypermethrin
000279 MN–03–0002	Aim Herbicide	Carfentrazone-ethyl
000279 MS–04–0018	Aim EC Herbicide	Carfentrazone-ethyl
000279 MT–03–0001	Z-Cype 0.8 EC Insecticide	Zeta-Cypermethrin
000279 ND–03–0003	Z-Cype 0.8 EC Insecticide	Zeta-Cypermethrin
000279 NE–03–0001	Z-Cype 0.8 EC Insecticide	Zeta-Cypermethrin
000279 OH–03–0002	Z-Cype 0.8 EC Insecticide	Zeta-Cypermethrin
000279 TX–04–0025	Aim EC Herbicide	Carfentrazone-ethyl
000279 WY–03–0003	Z-Cype 0.8 EC Insecticide	Zeta-Cypermethrin
000352–00524	Dupont Escort RP Herbicide	Metsulfuron
000352–00525	Dupont Pinnacle Herbicide	Thifensulfuron
000352–00539	Dupont Pinnacle Agtab Herbicide	Thifensulfuron
000352–00561	Dupont Concert SP Herbicide	Thifensulfuron
		Chlorimuron
000352–00563	Dupont Concert Herbicide	Thifensulfuron
		Chlorimuron
000352–00580	Dupont Reliance STS Sp Herbicide	Thifensulfuron

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
		Chlorimuron
000352–00584	Dupont Reliance STS Herbicide	Thifensulfuron
		Chlorimuron
000352–00696	Gibbex 4%	Gibberellic acid
000352–00697	Gibbex 20SP	Gibberellic acid
000352–00708	Mepex Plus-CP	Gibberellic acid
		Indole-3-butyric acid
		Mepiquat chloride
		Cytokinin (as kinetin)
000352 LA–01–0018	Dupont Lannate SP Insecticide	Methomyl
000352 LA–01–0019	Dupont Lannate LV Insecticide	Methomyl
000352 MN–01–0011	Super Tin 80WP	Fentin hydroxide
000352 MN–02–0005	Dupont Assure II Herbicide	Propanoic acid, 2-4-(6-chloro-2-quinoxalinyl)oxyphenoxyU-, ethylester, (R)-
000352 MN–07–0004	Super Tin 4l Fungiciide	Fentin hydroxide
000352 MT–01–0004	Super Tin 80WP	Fentin hydroxide
000352 ND–01–0010	Super Tin 80WP	Fentin hydroxide
000352 ND–07–0001	Super Tin 4L Fungicide	Fentin hydroxide
000352 ND–07–0002	Super Tin 4L Fungicide	Fentin hydroxide
000400–00482	Stifle	Maleic hydrazide, potassium salt
		Butralin
000400 AZ–03–0010	Terramaster 4EC	Etridiazole
000400 LA–01–0011	Dimilin 25W for Cotton/Soybean	Diflubenzuron
000400 OK–08–0014	Comite Agricultural Miticide	Propargite
000400 OR–03–0006	Comite Agricultural Miticide	Propargite
000400 OR–03–0017	Comite Agricultural Miticide	Propargite
000400 OR–03–0018	Dimilin 2L	Diflubenzuron
000400 OR–03–0020	Comite Agricultural Miticide	Propargite
000400 OR–03–0021	Dimilin 2L	Diflubenzuron
000400 OR–03–0026	Comite Agricultural Miticide	Propargite
000400 OR–03–0027	Comite Agricultural Miticide	Propargite
000400 OR–04–0001	Comite Agricultural Miticide	Propargite
000400 OR–04–0036	Comite	Propargite
000400 WI–03–0001	Comite Agricultural Miticide	Propargite
000400 WY–02–0001	Comite Agricultural Miticide	Propargite
000464–00697	Uconex 315 Antimicrobial	Glutaraldehyde
000464–00698	Uconex 345 Antimicrobial	Glutaraldehyde

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
000538–00200	Scotts Turf Manager	Mefluidide
		Paclobutrazol
000538–00220	Private Label Weed and Feed	2–4,D
		Mecoprop-P
000655–00794	Prentox Malathion 57% E.C.	Malathion
000777–00087	Tulsa	Benzyl benzoate
000777–00088	Benzyl Benzoate	Benzyl benzoate
000802–00549	Lilly/Miller Slug, and Snail 'em Bait	Metaldehyde
000833–00075	Afco 4335 LF Tops Acid Sanitizer	Phosphoric acid
		Dodecylbenzenesulfonic acid
001381–00175	Teamwork + MCPE	MCPA, 2-ethylhexyl ester
		Carfentrazone-ethyl
001381 VA–05–0005	Arctic 3.2 EC	Permethrin
001448–00356	Bulab 6058	2,4-Imidazolidinedione, 1-bromo-3-chloro-5,5-dimethyl-
001448–00385	Tulab 6087	2,2-Dibromo-3-nitrilopropionamide
001529–00057	Bodoxin	5-Chloro-2-methyl-3(2H)-isothiazolone
		2-Methyl-3(2H)-isothiazolone
001706–00055	Cuprose Algaecide	Copper sulfate pentahydrate
001839–00013	BTC 2125 Concentrated Germicide	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12)
		Alkyl* dimethyl ethylbenzyl ammonium chloride *(50%C12, 30%C14, 17%C16, 3%C18)
001839–00020	BTC-2125 P40	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12)
		Alkyl* dimethyl ethylbenzyl ammonium chloride *(50%C12, 30%C14, 17%C16, 3%C18)
001839–00025	BTC 471	Alkyl* dimethyl ethylbenzyl ammonium chloride *(50%C12, 30%C14, 17%C16, 3%C18)
001839–00034	BTC 2125–80%	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12)
		Alkyl* dimethyl ethylbenzyl ammonium chloride *(50%C12, 30%C14, 17%C16, 3%C18)
001839–00042	So/San 30 Concentrated Softener Sanitizer for Mfg. Use	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12)
		Alkyl* dimethyl ethylbenzyl ammonium chloride *(50%C12, 30%C14, 17%C16, 3%C18)
001839–00058	So/San 66M	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12)
		Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14)
001839–00067	BTC 2568	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 25%C12, 15%C16)
001910–00001	Legear Mange Treatment	Benzyl benzoate

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
001965–00011	Vancide 89	Captan
002217–00546	Maneb 80w Fungicide	Maneb
002217–00763	Embark 1–S Plant Growth Regulator	Acetamide,N-(2,4-dimethyl-5-(((trifluoromethyl) sulfonyl)amino)phenyl)-, compd. with 2,2'imi
002217–00765	Embark 1–L Plant Growth Regulator	N-(2,4-Dimethyl-5 -(((trifluoromethyl) sulfonyl)amino)phenyl) acetamide, potassium salt
002217–00787	Embark R-T-U Northern	Acetamide,N-(2,4-dimethyl-5 -(((trifluoromethyl) sulfonyl)amino)phenyl)-, compd. with 2,2'imi
002217–00788	Embark R-T-U Southern	Acetamide,N-(2,4-dimethyl-5-(((trifluoromethyl) sulfonyl) amino)phenyl)-, compd. with 2,2'imi
002217–00807	EH1312 Herbicide	Benzoic acid, 3,6-dichloro-2-methoxy-, compd with N-methylmethanamine (1:1)
		2,4–D, diethanolamine salt
		2,4–D, dimethylamine salt
		Propanoic acid, 2-(4-chloro-2-methylphenoxy)-, (R)-, compd. with N-methylmethanamine (1:1)
002217–00809	ER 721	Acetamide,N-(2,4-dimethyl-5-(((trifluoromethyl) sulfonyl)amino)phenyl)-, compd. with 2,2'imi
002935 WA–06–0014	Diazinon 14G	Diazinon
003635–00279	Oxford D'germ Disinfectant-Toilet-Urinal Cleaner	Hydrochloric acid
		Phosphoric acid
		Dodecylbenzenesulfonic acid
003862–00153	Towercide 5	Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl (dimethylimino)-1,2-ethanediyl dichlori
004581 LA–05–0007	Tenkoz Acephate 90 Insecticide	Acephate
004581 LA–05–0008	Acephate 90 SP	Acephate
004822–00005	Raid Insect Spray	MGK 264
		Piperonyl butoxide
		Pyrethrins
004822–00228	Raid Indoor Fogger Formula VII	MGK 264
		Piperonyl butoxide
		Pyrethrins
		Methoprene
005174–00011	Help Sanitizer	Phosphoric acid
		Dodecylbenzenesulfonic acid
005382–00038	Vulcan Chlorine	Chlorine
005383–00047	Troysan 364	Tributyltin oxide
		2-((Hydroxymethyl)amino)ethanol
005383–00105	Troysan Alf4	Carbamic acid, butyl-, 3-iodo-2-propynyl ester
		Carbendazim

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
		1,3,5-Triazine-2,4-diamine,N-cyclopropyl-N'-(1,1-dimethylethyl)-6-(methylthio)-
005481–00488	Dacthal G-2.5 Herbicide	DCPA (or chlorthal-dimethyl)
005481–00489	Dacthal G-5 Herbicide	DCPA (or chlorthal-dimethyl)
005905–00087	Helena Brand 2lb Chlorate Defoliant Desiccant	Sodium chlorate
005905–00216	Helena Brand Drop-A-Sucker Tobacco Sucker Control Agent	Alcohols, Cx - Cxx
005905–00251	Helena Sevimol 4 Carbaryl Insecticide	Carbaryl
005905–00293	Fyfanon 25 WP	Malathion
005905–00494	Setre Fluometuron 80 WP Herbicide	Fluometuron
006959–00098	DDVP 20% Aerosol	Dichlorvos
007173–00256	Metarex 2% Snail and Slug Bait	Metaldehyde
007313–00010	Amercoat 275E Red Antifouling	Cuprous oxide
007313–00011	Amercoat 277E Antifouling Black	Cuprous oxide
007313–00014	Formula 121	Cuprous oxide
007313–00015	Formula 129 Marine Antifouling Paint Vinyl Black	Cuprous oxide
007313–00016	S.M. Copper Anti-Fouling Paint M–078	Cuprous oxide
007313–00017	Fishermans' Plastic Anti-Fouling Paint M–1075	Cuprous oxide
007313–00019	Devrav 214–S–4987	Cuprous oxide
007313–00021	Devran 216–S–3873 Marine Antifouling Paint 216 Red	Cuprous oxide
007401–00027	Ferti-Lome Weed and Grass Preventer	DCPA (or chlorthal-dimethyl)
007401–00031	Ferti-Lome Nutgrass & Weed Killer	MSMA (and salts)
007401–00041	Ferti-Lome Home & Garden Insect Spray	MGK 264
		Piperonyl butoxide
		Pyrethrins
007401–00042	Ferti-Lome Lawn & Garden Fungicide	Pentachloronitrobenzene
007401–00045	Ferti-Lome Decimate Plus Surfactant	MSMA (and salts)
007401–00052	Lesser Peach Tree Borer Killer	Malathion
007401–00058	Ferti-Lome Borer Killer	Malathion
007401–00084	Ferti-Lome Liquid Fungicide for Brown Patch Control	Pentachloronitrobenzene
007401–00115	Hi-Yield Malathion 8 Lb. Emulsifiable Concentrate	Malathion
007401–00130	Hi-Yield Dsma Liquid Herbicide	DSMA
007401–00175	Ferti-Lome Mosquito Spray	Malathion
007401–00183	Poly Brand Cotton Weeder & Surfactant	MSMA (and salts)
007401–00185	Poly Cotton Weeder Concentrate	MSMA (and salts)
007401–00194	Hi-Yield Decimate	MSMA (and salts)

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
007401–00196	Hi-Yield Decimate & Surfactant	MSMA (and salts)
007401–00197	Ferti-Lome containing Fungicide	Pentachloronitrobenzene
007401–00198	Hi-Yield Decimate Conc	MSMA (and salts)
007401–00206	Hi-Yield Low Volume Malathion Concentrate	Malathion
007401–00240	Hi-Yield Super 3a.g.	MSMA (and salts)
007401–00241	Ferti Lome Crabgrass Preventer Plus Lawn Food	Siduron
007401–00255	Hi-Yield 5 Lb Malathion	Malathion
007401–00257	Ferti-Lome Malathion Spray	Malathion
007401–00273	Hi - Yield Grain Storage Spray	Malathion
007401–00299	Ferti-Lome Perma-Trim	Cacodylic acid
		Cacodylic acid, sodium salt
007401–00300	Ferti-Lome Improved Vegetation Killer	Cacodylic acid
		Cacodylic acid, sodium salt
007401–00309	Quik-Kill Ready-To-Use Weed and Grass Killer	Cacodylic acid
		Cacodylic acid, sodium salt
007401–00324	Ferti-Lome Quik-Kill Concentrate Weed & Grass Killer	Cacodylic acid
		Cacodylic acid, sodium salt
007401–00327	Hi-Yield Phytar 560 Herbicide	Cacodylic acid
		Cacodylic acid, sodium salt
007401–00332	Ferti-Lome Bermuda Grass Weeder	MSMA (and salts)
007401–00343	Ferti-Lome Rooting Powder	Indole-3-butyric acid
007401–00358	Hi-Yield Herbicide	Cacodylic acid
		Cacodylic acid, sodium salt
		MSMA (and salts)
007401–00359	High Yield Cotton Defoliant	Cacodylic acid
		Cacodylic acid, sodium salt
007401–00365	Ferti-Lome Broad Spectrum Perma-Trim	Cacodylic acid
		Cacodylic acid, sodium salt
007401–00367	Ferti-Lome Ready To Use Vegetable Insect Spray	Piperonyl butoxide
		Pyrethrins
007401–00384	Hi-Yield Scum & Algae Control for Ponds	Copper sulfate pentahydrate
007401–00395	American Brand Casoron Granules	Dichlobenil
007401–00432	Bonide Disease Beater with Bayleton .5%	Triadimefon
007401–00439	Ferti-Lome Dog-Gon Dog and Cat Repellent	Methyl nonyl ketone
007401–00446	Hi-Yield Super-T Hf Herbicide	Trifluralin

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
007401–00450	Hi-Yield Snail & Slug Killer Pellets	Metaldehyde
007401–00462	Hi-Yield Super Concentrate Killzall	Glyphosate-isopropylammonium
007401–00465	Ferti-Lome Tomato & Pepper Set II	Gibberellic acid
		Indole-3-butyric acid
007401–00467	Hi-Yield Super Concentrate Killzall II	Glyphosate-isopropylammonium
007546–00004	O-San	Phosphoric acid
		Dodecylbenzenesulfonic acid
007679–00022	American Brand Dsma Weed Killer	DSMA
007969–00265	Rak 3 Cm Pheromone Dispenser	(E,E)-8,10-Dodecadien-1-ol
007969 SD–03–0001	G-Max Lite	Atrazine
		dimethenamide-P
007969 UT–99–0003	Facet 75 Df Herbicide	Quinclorac
008329–00032	Flyspray 514	Piperonyl butoxide
		Pyrethrins
		Resmethrin
008329–00047	Flax 10 Insecticide	Permethrin
008329–00048	Punt 57 - OS	Permethrin
008329–00049	Punt 5.7 OS	Permethrin
008329–00050	Flak 2–2 RTU	Piperonyl butoxide
		Permethrin
008329–00051	Flak 4–4	Piperonyl butoxide
		Permethrin
008329–00064	Mosquito Beater 4–4	Piperonyl butoxide
		Permethrin
008329–00065	Permethrin/Pbo 50/50	Piperonyl butoxide
		Permethrin
008536–00001	Brom–76	Methyl bromide
008536–00017	Methyl Bromide 99.75%	Methyl bromide
008622–00079	Ambricide	Ammonium bromide
008660–00073	Vertagreen Slug & Snail Bait	Metaldehyde
008660–00196	Pursell Snail & Slug Killer Meal	Metaldehyde
008660–00197	Snail & Slug Killer Pellets	Metaldehyde
008660–00250	Sta-Gone Snail & Slug Killer Pellets	Metaldehyde
008660–00251	Sta-Gone Snail & Slug Killer Meal	Metaldehyde
010163–00044	Prokil Malathion ULV	Malathion
010163–00061	Prokil Malathion 25–WP	Malathion
010163–00094	Gowan Prometryne 4l	Prometryn

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
010163–00101	Gowan Trifluralin 4	Trifluralin
010163–00181	Gowan Trifluralin E.c.	Trifluralin
010163–00184	Imidan 70–WSB	Phosmet
010163–00237	Methidathion 50S	Methidathion
010163–00238	Supracide Insecticide-Miticide	Methidathion
010163 ID–06–0010	Eptam 7–E	Carbamothioic acid, dipropyl-, S-ethyl ester
010163 OR–06–0001	Eptam 7–E (for Suppression of Yellow Nutsedge)	Carbamothioic acid, dipropyl-, S-ethyl ester
011556–00126	Advantage Plus 9 for Cats	Pyriproxyfen
		Imidacloprid
011556–00129	Advantage Plus 18 for Cats	Pyriproxyfen
		Imidacloprid
012455–00015	Warfarin Rat and Mouse Bait	Warfarin
012455–00022	Liqua-Tox Liquid Concentrate	Warfarin, sodium salt
012455–00031	Contrac Concentrate	Bromadiolone
012455–00057	Quintox Mouse Seed	9,10-Secocholesta-5,7,10(19)-trien-3-ol, (3.beta.,5Z,7E)-
012455–00059	Zp Rodent Bait Place Pac	Zinc phosphide (Zn3P2)
012455–00067	Ditrac Mouse Bait Station	Diphacinone
012455–00084	Ditrac Rodenticide Ready To Use Place Pac	Diphacinone
012455–00085	Mole and Gopher Bait	Zinc phosphide (Zn3P2)
012455–00100	Fastrac Mouse Seed Place Pac	Bromethalin
012455–00103	Contrac Bait Trays	Bromadiolone
012455 CA–97–0015	Quintox Rat and Mouse Bait	9,10-Secocholesta-5,7,10(19)-trien-3-ol, (3.beta.,5Z,7E)-
034704–00131	Clean Crop Mcpp Green	MCPP-P-potassium
034704–00367	Summer Flowable Emulsion Light-Medium Insecticide	Aliphatic petroleum solvent
034704–00372	Niagara Summer Quik Mix, Light Medium Code R–292	Aliphatic petroleum solvent
034704–00383	Citrus Soluble Oil - Heavy Medium	Aliphatic petroleum solvent
034704–00551	Superior Spray Oil	Mineral oil - includes paraffin oil from 063503
034704–00994	Agsco Dustret "A"	Streptomycin sulfate
		Maneb
034704–00997	Agsco Dustret MZ 16	Mancozeb
034704–00998	Agsco DB-Red L	Maneb
034911–00002	Hi-Yield Malathion Insect Spray	Malathion
034911–00016	Hi-Yield Malathion Farm and Grain Spray	Malathion
034911–00019	Hi-Yield Improved Liquid Edger	Cacodylic acid
		Cacodylic acid, sodium salt

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
034911–00020	Hi-Yield Killzall Weed & Grass Killer	Cacodylic acid
		Cacodylic acid, sodium salt
040510–00001	Disinfectant, Food Service	Potassium iodide
		Trichloromelamine
043591–00003	VPL AABSFlyrepel 793	Piperonyl butoxide
		Pyrethrins
043591–00004	VPL Dog & Cat Indoor-Outdoor Repellent Spray	Methyl nonyl ketone
044446–00052	Shoo! Dog & Cat Repellent	Methyl nonyl ketone
044446–00068	PPP Flea & Tick Cycleblock(r) Home & Carpet Spray	MGK 264
		Pyrethrins
		Permethrin
		Pyriproxyfen
044446–00070	Quest Wild Game Insecticide	Piperonyl butoxide
		Pyrethrins
049585–00027	K Gro(r) Snail & Slug Bait	Metaldehyde
051036–00190	Oxycop	Copper oxychloride sulfate
051036–00275	Kozinc Wp	Copper hydroxide
055146–00005	Copper Oxychloride Sulfate	Copper oxychloride sulfate
055146–00031	Copro 57	Copper oxychloride sulfate
055272–00008	Micro Flo Co. Basic Copper 53	Basic copper sulfate
055272–00009	Microsperse 50 WP	Copper oxychloride (Cu2Cl(OH)3)
055272–00010	Microsperse Coc 53 WP	Copper oxychloride (Cu2Cl(OH)3)
055272–00011	Nu-Cop 40DF	Copper hydroxide
055272–00012	Coc 40 WDG	Copper oxychloride (Cu2Cl(OH)3)
057787–00024	Ultra-Brom	2,4-Imidazolidinedione, 1-bromo-3-chloro-5,5-dimethyl-
061282 FL–78–0062	Ramik Green	Diphacinone
061282 FL–88–0018	Ramik Green	Diphacinone
062719–00166	Dursban Pro	Chlorpyrifos
062719–00430	Thiazopyr Technical Herbicide	Thiazopyr
062719–00431	Visor*2E	Thiazopyr
062719 MI–94–0002	Lorsban 4E–HF	Chlorpyrifos
062719 OR–06–0011	Rally 40W	Myclobutanil
064328–00001	Advance-LF	Phosphoric acid
		Dodecylbenzenesulfonic acid
066222 AR–01–0008	Galigan 2E	Oxyfluorfen
066222 AZ–06–0009	Alias 2F Flowable Insecticide	Imidacloprid

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
066222 CA–07–0012	Ethephon 2SL Growth Regulator	Ethephon
066222 MS–01–0039	Galigan 2E	Oxyfluorfen
066222 OR–06–0023	Abamectin 0.15 EC	Abamectin
066330–00042	TM–42503	Methane, iodo-
		Chloropicrin
066330 CO–00–0004	Acephate 75SP	Acephate
066330 CO–99–0012	Dicamba Dma 4# AG	Benzoic acid, 3,6-dichloro-2-methoxy-, compd with N-methylmethanamine (1:1)
066330 CO–99–0013	Dicamba DMA 4# AG	Benzoic acid, 3,6-dichloro-2-methoxy-, compd with N-methylmethanamine (1:1)
066330 CO–99–0014	Dicamba DMA 4# AG	Benzoic acid, 3,6-dichloro-2-methoxy-, compd with N-methylmethanamine (1:1)
066330 WA–99–0036	Ethepon 2#	Ethephon
070506–00082	Agvalue-Bromacil, LLC / Agvalue Bromacil Technical	Bromacil
070506–00083	Bromo Herbicide	Bromacil
070506–00084	Bromo-D Herbicide	Bromacil
		Diuron
070506–00169	Imazapyr 4F Herbicide	2-(4,5-Dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl)-3-pyridinecarboxylic acid
070506 WA–04–0003	Penncozeb 75 DF	Mancozeb
070506 WA–96–0006	Aquathol K	Endothal-dipotassium
071085 AR–06–0002	Wham! EZ	Propanil
071085 AR–06–0003	Riceshot	Propanil
071085 AR–07–0002	Superwham! (alternate Name for Wham! EZ)	Propanil
071085 AR–07–0003	Duet	Propanil
		Bensulfuron-methyl
071085 AR–07–0004	Riceshot	Propanil
071085 AR–07–0005	Superwham! Wham ! EZ	Propanil
071085 AR–07–0006	Ricepro	Propanil
		Quinclorac
071096–00008	Snail & Slug Pellets	Metaldehyde
071096–00012	Lilly/Miller Go West Slug Killer	Metaldehyde
071711 CO–03–0005	Applaud 70WP	Buprofezin
071711 PA–02–0002	Talus Insect Growth Regulator	Buprofezin
073545 MN–04–0006	Topsin M WSB	Thiophanate-methyl
074530–00015	Bakker Herbicide	4-(2,4-Dichlorophenoxy)butyric acid
074530–00017	Hellion 175 Broadleaf Herbicide	Dimethylamine 4-(2,4-dichlorophenoxy)butyrate
081402–00002	Traveler's Supply Inc. Permethrin Clothing & Gear	Permethrin

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
081880 AR–08–0010	Permit Herbicide	Halosulfuron-methyl
081880 LA–08–0005	Permit Herbicide	Halosulfuron-methyl
081880 MO–08–0003	Permit Herbicide	Halosulfuron-methyl
081880 MS–08–0003	Permit Herbicide	Halosulfuron-methyl
081880 TX–08–0005	Permit Herbicide	Halosulfuron-methyl
083362–00001	Prehatch (tm) SG Biological Larvicide Sand Granules	Bacillus thuringiensis subsp. israelensis

A request to waive the 180–day comment period has been received for the following registrations: 000655–00794; 005481–00488; 005481–00489; 008622–00079; 011556–00126; 011556–00129; 034704–00367; 034704–00372; 034704–00383; 034704–00551; 070506–00082; 070506–00083; 070506–00084; ; 070506–00169; 071085 AR–06–0002; 071085 AR–06–0003; 071085 AR–07–0002; 071085 AR–07–0003; 071085 AR–07–0004; 071085 AR–07–0005; 071085 AR–07–0006; 083362–00001.

Unless a request is withdrawn by the registrant within 180 days of publication of this notice, orders will be issued canceling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 180–day period.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number:

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company no.	Company Name and Address
000004	Bonide Products, Inc., 6301 Sutliff Rd., Oriskany, NY 13424.
000100	Syngenta Crop Protection, Inc., Attn: Regulatory Affairs, PO Box 18300, Greensboro, NC 27419–8300.
000150	Anderson Chemical Co., Attn: Kelly Schultz, 325 South Davis Ave., Litchfield, MN 55355.
000192	Value Gardens Supply, LLC, d/b/a Value Garden Supply, PO Box 585, Saint Joseph, MO 64502.
000228	Nufarm Americas Inc., 150 Harvester Drive, Suite 200, Burr Ridge, IL 60527.
000241	BASF Corp., PO Box 13528, Research Triangle Park, NC 27709–3528.
000264	Bayer Cropscience LP, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709.
000279	FMC Corp. Agricultural Products Group, Attn: Michael C. Zucker, 1735 Market St, Rm 1978, Philadelphia, PA 19103.
000352	E.I. Du Pont De Nemours & Co Inc., Dupont Crop Protection (s300/427), PO Box 30, Newark, DE 19714–0030.
000400	Chemtura Corp., Attn: Crop Registration, 199 Benson Rd. (2–5), Middlebury, CT 06749.
000464	The Dow Chemical Co., Agent For: Dow Chemical Co., The, 1500 E. Lake Cook Rd., Buffalo Grove, IL 60089.
000538	Scotts Co., The, 14111 Scottslawn Rd, Marysville, OH 43041.
000655	Prentiss Inc., C.B. 2000, Floral Park, NY 11001–2000.
000777	Reckitt Benckiser Inc., Morris Corporate Center IV, 399 Interpace Parkway, Parsippany, NJ 07054–0225.
000802	Registrations By Design, Inc., Agent For: Central Garden and Pet d/b/a Lilly MiLL, 1181/2 E. Main St., Suite 1, Salem, VA 24153–3805.
000833	Alex C. Fergusson, Inc., 5000 Letterkenny Rd., Suite 220, Chambersburg, PA 17201.
001381	Winfield Solutions, LLC, PO Box 64589, St. Paul, MN 55164–0589.
001448	Buckman Laboratories Inc., 1256 North Mclean Blvd, Memphis, TN 38108.
001529	International Specialty Products, c/o Sangeeta V. Khattar, 1361 Alps Rd., Wayne, NJ 07470.
001706	Nalco Co., 1601 W. Diehl Rd., Naperville, IL 60563–1198.
001839	Stepan Co., 22 W. Frontage Rd., Northfield, IL 60093.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company no.	Company Name and Address
001910	Regwest Co., LLC, Agent For: Goodwinol Products Corp., 30856 Rocky Rd., Greeley, CO 80631–9375.
001965	R.T. Vanderbilt Co Inc., 30 Winfield St, Norwalk, CT 06856–5150.
002217	PBI/Gordon Corp., PO Box 014090, Kansas City, MO 64101–0090.
002935	Wilbur Ellis Co., PO Box 1286, Fresno, CA 93715.
003635	Johnsondiversey, Inc., 8310 16th Street, Sturtevant, WI 53177.
003862	ABC Compounding Co, Inc., PO Box 16247, Atlanta, GA 30321–0247.
004581	Cerexagri, Inc., 630 Freedom Business Center, Suite 402, King Of Prussia, PA 19406.
004822	S.C. Johnsona and Son Inc., 1525 Howe Street, Racine, WI 53403.
005174	Devere Co., Inc., PO Box 8444, Janesville, WI 53547–8444.
005382	Basic Chemicals Co., LLC, 5005 Lbj Freeway, Dallas, TX 75244.
005383	Troy Chemical Corp., PO Box 955, Florham Park, NJ 07932–4200.
005481	Amvac Chemical Corp., d/b/a Amvac, 4695 Macarthur Ct., Suite 1250, Newport Beach, CA 92660–1706.
005905	Helena Chemical Co., 7664 Moore Rd., Memphis, TN 38120.
006959	Cessco Inc., 3609a River Rd, Johns Island, SC 29455.
007173	Liphatech, Inc., 3600 W. Elm Street, Milwaukee, WI 53209.
007313	PPG Industries, Inc., Agent For: PPG Architectural Finishes, Inc., 4325 Rosanna Drive, Allison Park, PA 15101.
007401	Mandava Associates, LLC, Agent For: Voluntary Purchasing Groups, Inc., 6860 N. Dallas Pkwy., Suite 200, Plano, TX 75024.
007546	U.S. Chemical Corp., 316 Hart Street, Watertown, WI 53094–6616.
007679	Mandava Associates, Llc, Agent For: American Brand Chemical Co., 6860 N. Dallas Pkwy., Suite 200, Plano, TX 75024.
007969	Basf Corp., Agricultural Products, PO Box 13528, Research Triangle Park, NC 27709–3528.
008329	Clarke Mosquito Control Products, Inc., PO Box 72197, Roselle, IL 60172.
008536	Soil Chemicals Corp., d/b/a Cardinal Professional Products, PO Box 782, Hollister, CA 95024.
008622	ICI–IP America, Inc., 95 Maccorkle Ave. Southwest, South Charleston, WV 25303–1411.
008660	United Industries Corp., d/b/a Sylorr Plant Corp., PO Box 142642, St. Louis, MO 63114–0642.
010163	Gowan Co, PO Box 5569, Yuma, AZ 85366–5569.
011556	Bayer Healthcare LLC, Animal Health Division, PO Box 390, Shawnee Mission, KS 66201–0390.
012455	Bell Laboratories, Inc., 3699 Kinsman Blvd, Madison, WI 53704.
034704	Loveland Products, Inc., Attn: Mark R. Trostle, PO Box 1286, Greeley, CO 80632–1286.
034911	Mandava Associates, LLC, Agent For: Hi-Yield Chemical Co., 6860 N. Dallas Pkwy., Suite 200, Plano, TX 75024.
040510	US Army Research, Development and Engineering Command, Natick Soldier Center, 15 Kansas Street, Attn:amsrd-Nsc-Cf-P, Natick, MA 01760–5018.
043591	Veterinary Products Laboratories, PO Box 34820, Phoenix, AZ 85067.
044446	Quest Chemical Corp., 12255 F.M. 529 Northwoods Industrial Park, Houston, TX 77041.
049585	Alljack, Division of United Industries Corp., PO Box 142642, St Louis, MO 63114–0642.
051036	BASF Sparks LLC, PO Box 13528, Research Triangle Park, NC 27709–3528.
055146	Nufarm Americas Inc., AGT Division, 150 Harvester Drive Suite 200, Burr Ridge, IL 60527.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company no.	Company Name and Address
055272	Ensayo Consulting, Agent For: Ingenieria Industrial SA DE CV, 2838 Ulster St., Denver, CO 80238.
057787	Haviland Consumer Products, Inc., d/b/a Haviland Consumer Products, 421 Ann Street, Nw, Grand Rapids, MI 49504–2075.
061282	Hacco, Inc., 110 Hopkins Drive, Randolph, WI 53956–1316.
062719	Dow Agrosciences LLC, 9330 Zionsville Rd 308/2e, Indianapolis, IN 46268–1054.
064328	International Chemical Corp., PO Box 120066, Melbourne, FL 32912–0066.
066222	Makhteshim-Agan of North America Inc., 4515 Falls of Neuse Rd, Suite 300, Raleigh, NC 27609.
066330	Arysta Lifescience North America, LLC, 15401 Weston Parkway, Suite 150, Cary, NC 27513.
070506	United Phosphorus, Inc., 630 Freedom Business Center, Suite 402, King Of Prussia, PA 19406.
071085	Riceco LLC, 5100 Poplar Ave - Ste 2428, Memphis, TN 38137.
071096	Regulatory Services, Inc., Agent For: Or-Cal Inc., 17220 Westview Rd., Oswego, OR 97034.
071711	Nichino America, Inc., 4550 New Linden Hill Rd., Suite 501, Wilmington, DE 19808.
073545	United Phosphorus, Inc., Agent For: Nisso TM LLC, 630 Freedom Business Cntr, St 402, King Of Prussia, PA 19406.
074530	Helm Agro US, Inc., 8295 Tournament Drive, Suite 310, Memphis, TN 38125.
081402	Traveler's Supply, Inc., 2024R Westover Rd., Chicopee, MA 01022.
081880	Canyon Group LLC, c/o Gowan Co., 370 S. Main Street, Yuma, AZ 85364.
083362	B2E Microbials, LLC, 3330 Noyac Rd., Bdlg. D, Sag Harbor, NY 11963.

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before September 14, 2009. This written withdrawal of the request for cancellation will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in the **Federal Register** of June 26, 1991 (56 FR 29362) (FRL–3846–4). Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold, or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product. Exception to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a special review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: March 11, 2009.

Kathryn Bouvé

Director, Information Technology and Resources Management Division; Office of Pesticide Programs.

[FR Doc. E9–5828 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0094;FRL–8406–3]

Registration Review; Pesticide Dockets Opened for Review and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established registration review dockets for the pesticides listed in the table in Unit III.A. With this document, EPA is opening the public comment period for these registration reviews. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the Agency may consider during the course of registration reviews. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

DATES: Comments must be received on or before May 18, 2009.

ADDRESSES: Submit your comments identified by the docket identification (ID) number for the specific pesticide of interest provided in the table in Unit III.A., by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to the docket ID numbers listed in the table in Unit III.A. for the pesticides you are commenting on. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information contact*: The Chemical Review Manager identified in the table in Unit III.A. for the pesticide of interest.

For general information contact: Kevin Costello, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5026; fax number: (703) 308–8090; e-mail address: *costello.kevin @epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farmworker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

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

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at

your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice*. EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

II. Authority

EPA is initiating its reviews of the pesticides identified in this document pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA section 3(a), a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What Action is the Agency Taking?

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registrations identified in the table in this unit to assure that they continue to satisfy the FIFRA standard for registration—that is, they can still be used without unreasonable adverse effects on human health or the environment. A pesticide's registration review begins when the Agency establishes a docket for the pesticide's registration review case and opens the docket for public review and comment. At present, EPA is opening registration review dockets for the cases identified in the following table.

TABLE—REGISTRATION REVIEW DOCKETS OPENING

Registration Review Case Name and Number	Docket ID Number	Chemical Review Manager, Telephone Number	E-mail Address
Acephate 0042	EPA–HQ–OPP–2008–0915	Susan Bartow, 703–603–0065	*bartow.susan@epa.gov*
Chlorpyrifos 0100	EPA–HQ–OPP–2008–0850	Karen.Santora, 703–347–8781	*santora.karen@epa.gov*
Tribufos (DEF) 2145	EPA–HQ–OPP–2008–0883	Molly Clayton, 703–603–0522	*clayton.molly@epa.gov*
Dimethoate 0088	EPA–HQ–OPP–2009–0059	Jude Andreasen, 703–308–9342	*andreasen.jude@epa.gov*
Disulfoton 0102	EPA–HQ–OPP–2009–0054	Eric Miederhoff, 703–347–8028	*miederhoff.eric@epa.gov*
Fenitrothion 0445	EPA–HQ–OPP–2009–0172	Katherine St. Clair, 703–347–8778	*stclair.katherine@epa.gov*
Methidathion 0034	EPA–HQ–OPP–2008–0723	Jose Gayoso, 703–347–8652	*gayoso.jose@epa.gov*
Naled 0092	EPA–HQ–OPP–2009–0053	Cathryn O'Connell, 703–308–0136	*oconnell.cathryn@epa.gov*
Nithiazine (2H-1,3-Thiazine, tetrahydro-2-(nitromethylene)-)7415	EPA–HQ–OPP–2008–0847	Jill Bloom, 703–308–8019	*bloom.jill@epa.gov*
Phorate 0103	EPA–HQ–OPP–2009–0055	Jennifer Howenstine, 703–305–0741	*howenstine.jennifer@epa.gov*
Pirimiphos-methyl 2535	EPA–HQ–OPP–2009–0056	Jennifer Howenstine, 703–305–0741	*howenstine.jennifer@epa.gov*
Trichlorfon 0104	EPA–HQ–OPP–2009–0097	Kylie Rothwell, 703–308–8055	*rothwell.kylie@epa.gov*

Chlorpyrifos methyl, which is currently listed as part of the chlorpyrifos case, is scheduled to begin Registration Review in 2010.

B. Docket Content

1. *Review dockets*. The registration review dockets contain information that the Agency may consider in the course of the registration review. The Agency may include information from its files including, but not limited to, the following information:

- An overview of the registration review case status.
- A list of current product registrations and registrants.
- **Federal Register** notices regarding any pending registration actions.
- **Federal Register** notices regarding current or pending tolerances.
- Risk assessments.
- Bibliographies concerning current registrations.
- Summaries of incident data.
- Any other pertinent data or information.

Each docket contains a document summarizing what the Agency currently knows about the pesticide case and a preliminary work plan for anticipated data and assessment needs. Additional documents provide more detailed

information. During this public comment period, the Agency is asking that interested persons identify any additional information they believe the Agency should consider during the registration reviews of these pesticides. The Agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

2. *Other related information*. More information on these cases, including the active ingredients for each case, may be located in the registration review schedule on the Agency's website at *http://www.epa.gov/oppsrrd1/registration_review/schedule.htm*. Information on the Agency's registration review program and its implementing regulation may be seen at *http://www.epa.gov/oppsrrd1/registration_review*.

3. *Information submission requirements*. Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

• To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.

• The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.

• Submitters must clearly identify the source of any submitted data or information.

• Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

• As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: March 11, 2009.

Richard P. Keigwin, Jr.,

Director, Special Review and Registration Division, Office of Pesticide Programs.

[FR Doc. E9–5824 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0922; FRL–8404–5]

Sodium Hydroxide (Mineral Bases, Strong) Registration Review Final Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's final registration review decision for the pesticide sodium hydroxide (mineral bases, strong), case 4065. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, that the pesticide can perform its intended function without causing unreasonable adverse effects on human health or the environment. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

FOR FURTHER INFORMATION CONTACT: Diane Isbell, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8154; fax number: (703) 308–8481; e-mail address: *isbell.diane@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0922. Publicly available docket materials are available either in the electronic docket at*http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Background

A. What Action is the Agency Taking?

Pursuant to 40 CFR 155.58(c), this notice announces the availability of EPA's final registration review decision for sodium hydroxide (mineral bases, strong), case 4065. Sodium hydroxide (mineral bases, strong), is an antimicrobial pesticide that is used as a disinfectant and sanitizer in residential and public access premises, it is used to disinfect and sanitize kitchens and counter tops, bathrooms, garbage cans, pet areas, finished hardwood flooring and furniture, and automotive surfaces.

Pursuant to 40 CFR 155.57, a registration review decision is the Agency's determination whether a pesticide meets, or does not meet, the standard for registration in FIFRA. EPA has considered sodium hydroxide (mineral bases, strong) in light of the FIFRA standard for registration. The Sodium Hydroxide (Mineral Bases, Strong) Final Decision document in the docket describes the Agency's rationale for issuing a registration review final decision for this pesticide.

In addition to the final registration review decision document, the registration review docket for sodium hydroxide (mineral bases, strong) also includes other relevant documents related to the registration review of this case. The proposed registration review decision was posted to the docket and the public was invited to submit any comments or new information. During the 60–day comment period, no public comments were received.

Pursuant to 40 CFR 155.58(c), the registration review case docket for

sodium hydroxide (mineral bases, strong) will remain open until all actions required in the final decision have been completed.

Background on the registration review program is provided at:*http://www.epa.gov/oppsrrd1/registration_review*. Links to earlier documents related to the registration review of this pesticide are provided at: *http://www.epa.gov/oppsrrd1/registration_review/mineral_bases/index.htm*.

B. What is the Agency's Authority for Taking this Action?

Section 3(g) of FIFRA and 40 CFR part 155, subpart C, provide authority for this action.

List of Subjects

Environmental protection, Antimicrobials, Pesticides and pests, Registration review, Sodium hydroxide.

Dated: March 4, 2009.

Joan Harrigan-Farrelly,

Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. E9–5826 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–0492; FRL–8779–1]

Review of the National Ambient Air Quality Standards for Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of planning documents for public review and comment.

SUMMARY: On or about February 27, 2009, the Office of Air Quality Planning and Standards (OAQPS) of EPA is making available for public review and comment two planning documents titled: *Particulate Matter National Ambient Air Quality Standards: Scope and Methods Plan for Health Risk and Exposure Assessment*; and *Particulate Matter National Ambient Air Quality Standards: Scope and Methods Plan for Urban Visibility Impact Assessment*. These documents describe EPA's planned approach for developing quantitative analyses as part of the review of the National Ambient Air Quality Standards (NAAQS) for particulate matter (PM). EPA is releasing these planning documents to seek consultation with the Clean Air Scientific Advisory Committee (CASAC) and to solicit public comments.

DATES: Comments should be submitted on or before May 18, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2007–0492, 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:* EPA–HQ–OAR–2007–0492, Environmental Protection Agency, Mail code 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies.
- *Hand Delivery:* Environmental Protection Agency, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2007–0492. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* (or e-mail). The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket and Information Center, EPA/DC, EPA West, Room 3334, 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, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Any questions concerning EPA's *Particulate Matter National Ambient Air Quality Standard: Scope and Methods Plan for Health Risk and Exposure Assessment* should be directed to Ms. Beth Hassett-Sipple at *hassett-sipple.beth@epa.gov* or telephone 919–541–4605. Any questions concerning *Particulate Matter National Ambient Air Quality Standards: Scope and Methods Plan for Urban Visibility Impact Assessment* should be directed to Ms. Vicki Sandiford at *sandiford.vicki@epa.gov* or telephone 919–541–2629.

General Information

A. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through *http://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 as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

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

• Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

• Follow directions—The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

• Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

• Describe any assumptions and provide any technical information and/or data that you used.

• If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

• Provide specific examples to illustrate your concerns, and suggest alternatives.

• Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

• Make sure to submit your comments by the comment period deadline identified.

SUPPLEMENTARY INFORMATION: Under section 108(a) of the Clean Air Act (CAA), the Administrator identifies and lists certain pollutants which ''cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare.'' The EPA then issues air quality criteria for listed pollutants, which are commonly referred to as ''criteria pollutants.'' The air quality criteria are to ''accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected form the presence of [a] pollutant in the ambient air, in varying quantities.'' Under section 109 of the CAA, EPA establishes NAAQS for each listed pollutant, with the NAAQS based on the air quality criteria. Section 109(d) of the CAA requires periodic review and, if appropriate, revision of existing air quality criteria. The revised air quality criteria reflect advances in scientific knowledge on the effects of the pollutant on public health or welfare. The EPA is also required to periodically review and revise the NAAQS, if appropriate, based on the revised criteria.

Air quality criteria have been established for particulate matter (PM) and NAAQS have been established for $PM_{2.5}$ and PM_{10}, to provide protection for fine and coarse particles, respectively. Presently, EPA is reviewing the air quality criteria and NAAQS for PM. The EPA's overall plan and schedule for this review is presented in the *Integrated Review Plan for the National Ambient Air Quality Standards for Particulate Matter.*[1] A draft of the integrated review plan was released for public review and comment in October 2007 and was the subject of a consultation with the Clean Air Scientific Advisory Committee (CASAC) on November 30, 2007 (72 FR 63177; November 8, 2007). Comments received from that consultation and from the public were considered in finalizing the plan and in beginning the review of the air quality criteria.

As part of the review of the air quality criteria for PM, EPA's Office of Research and Development (ORD) has completed a draft document, *Integrated Science Assessment (ISA) for Particulate Matter* (First External Review Draft, December 2008) and requested review by the CASAC and the public (73 FR 77686; December 19, 2008). In the future, EPA's OAQPS will prepare a Risk and Exposure Assessment (REA) focusing on: (1) Human health risk and exposure assessment, and (2) assessment of urban visibility impairment. The two planning documents announced today describe the planned approaches for conducting the quantitative assessments that will be presented in the REA as part of the review of the primary (health-based) and secondary (welfare-based) PM NAAQS. These documents are available on the Agency's Technology Transfer Network (TTN) Web site at *http://www.epa.gov/ttn/naaqs/standards/pm/s_pm_index.html*. These documents may be accessed in the ''Documents from Current Review'' section under ''Planning Documents.'' These planning documents are intended to provide enough specificity to facilitate consultation with CASAC, as well as for public review, in order to obtain advice on the overall scope, approaches and key issues in advance of the conduct of the quantitative analyses and presentation of results in the first draft REA. The CASAC consultation on these two planning documents coincides with its review of the first draft ISA. This CASAC meeting is scheduled for April 1 and 2, 2009. A separate **Federal Register** notice provides additional details about this meeting and the process for participation (74 FR 7688; February 19, 2009).

[1] EPA 452R–08–004; March 2008; Available: *http://www.epa.gov/ttn/naaqs/standards/pm/s_pm_2007_pd.html.*

Dated: February 27, 2009.

Jeffrey S. Clark,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. E9–5843 Filed 3–17–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[CG Docket No. 02–278; DA 09–542]

Consumer and Governmental Affairs Bureau Seeks Comment on Paul D.S. Edwards Petition for Expedited Clarification and Declaratory Ruling Concerning the Telephone Consumer Protection Act (TCPA) Rules

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission seeks comment on a petition for an expedited clarification and declaratory ruling, filed by Paul D.S. Edwards (Edwards), asking whether a creditor may place autodialed or prerecorded message calls to a telephone number associated with wireless service that was provided to the creditor initially as a telephone number associated with landline service.

DATES: Comments are due on or before April 2, 2009. Reply comments are due on or before April 13, 2009.

ADDRESSES: Interested parties may submit comments and reply comments identified by [CG Docket No. 02–278], by any of the following methods:

• *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the Commission's Electronic comment Filing System (ECFS), through the Commission's Web site: *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, in completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number, which in this instance is [CG Docket No. 02–278]. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov*, and include the following words in the body of the message, ''get form <your e-mail address>.'' 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. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered 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 should be addressed to 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Karen Johnson, Consumer and Governmental Affairs Bureau, Policy Division, at (202) 418–7706 (voice), or e-mail *Karen.Johnson@fcc.gov*.

SUPPLEMENTARY INFORMATION: On January 12, 2009, Edwards filed a petition for expedited clarification and declaratory ruling concerning the Telephone Consumer Protection Act. *See* Petition for Expedited Clarification, filed by Paul D. S. Edwards, January 12, 2009 (*Petition*). This is a summary of the Commission's Public Notice DA 09–542. Pursuant to 47 CFR 1.415 and 1.419 of the Commission's rules, interested parties may file comments and reply comments on Edwards's *Petition* on or before the dates indicated above. This proceeding shall be treated as a permit-but-disclose proceeding under the *ex parte* rules, which are codified at 47 CFR 1.1200(a) and 1.1206. Therefore, *ex parte* presentations will be allowed but must be disclosed in accordance with the requirements of 1.1206(b) of the Commission's Rules, 47 CFR 1.1206(b). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 CFR 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

The full text of document DA 09–542 and any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554, (202) 418–0270. Document DA 09–542 and any subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor at the contractor's Web site, *www.bcpiweb.com*, or by calling (800) 378–3160. Furthermore, document DA 09–542 and any subsequently filed documents in this matter, and a copy of the underlying *Petition* may be found by searching ECFS at *http://www.fcc.gov/cgb/ecfs* (insert [CG Docket No. 02–278] into the Proceeding block).

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 and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). Document DA 09–542 can also be downloaded in Word or Portable Document Format (PDF) at: *http://www.fcc.gov/cgb/policy/headlines.html*.

Synopsis

On January 12, 2009, Edwards filed a petition for an expedited clarification and declaratory ruling regarding the Commission's rules under the TCPA. Specifically, Edwards asks the Commission to clarify whether a creditor may place autodialed or prerecorded message calls to a telephone number associated with wireless service that was provided to the creditor initially as a telephone number associated with landline service. Section 64.1200(a)(1)(iii) of the Commission's rules prohibits the initiation of ''any telephone call (other than a call made for emergency purposes or made with the prior express consent of the called party) using an automatic telephone dialing system or an artificial or prerecorded voice, to any telephone number assigned to * * * cellular telephone service. * * *'' The Commission concluded that such calls to wireless numbers that are provided by the called party to a creditor in connection with an existing debt are permissible as calls made with the ''prior express consent'' of the called party.

Edwards asserts that the Commission's ruling permits debt collection calls to a wireless telephone number only when the consumer, in that instance, provides the wireless telephone number to the creditor. Edwards contends that when the creditor is initially provided a ''landline'' telephone number, and subsequently that ''landline'' number is ported to a cellular telephone, an established business relationship, ''prior express consent,'' or other exemption from section 227(b)(1)(A)(iii) of the TCPA is not created. Edwards concludes that compliance with the TCPA requires that the consumer must have provided the creditor a telephone number assigned to a wireless service in order for calls to the wireless telephone number to be permissible. Accordingly, the Commission seeks comment on Edwards's petition.

Federal Communications Commission.

Erica McMahon,

Division Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. E9–5823 Filed 3–17–09; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewals (0028; 0121); Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning the following continuing collections of information titled: (1) Recordkeeping and Confirmation Requirements for Securities Transactions (3064–0028); and (2) Certification of Compliance with Mandatory Bars to Employment (3064–0121).

DATES: Comments must be submitted on or before May 18, 2009.

ADDRESSES: Interested parties are invited to submit written comments on the collections of information entitled: (1) Recordkeeping and Confirmation Requirements for Securities Transactions (3064–0028); and (2) Certification of Compliance with

Mandatory Bars to Employment (3064–0121). Comments should refer to the name of the collections and may be submitted by any of the following methods:

- Web Site: *http://www.FDIC.gov/regulations/laws/federalnotices.html.*
- *E-Mail: comments@fdic.gov.*
- *Mail:* Herbert J. Messite, Counsel, telephone 202–898–6834, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

A copy of the comments may also be submitted to the OMB Desk Officer for the FDIC, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Herbert J. Messite at the address identified above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collections of information:

1. *Title:* Recordkeeping and Confirmation Requirements for Securities Transactions.

OMB Number: 3064–0028.

Frequency of Response: On occasion.

Affected Public: Business or other financial institutions.

Estimated Number of Respondents: 4470.

Estimated Time per Response: 27.91 hours.

Total Annual Burden: 124,758 hours.

General Description of Collection: The information collection requirements are contained in 12 CFR part 344. The regulation's purpose is to ensure that purchasers of securities in transactions effected by insured state nonmember banks are provided with adequate records concerning the transactions. The regulation is also designed to ensure that insured state nonmember banks maintain adequate records and controls with respect to the securities transactions they effect.

2. *Title:* Certification of Compliance with Mandatory Bars to Employment.

OMB Number: 3064–0121.

Form Number: FDIC 7300/06.

Frequency of Response: On occasion.

Affected Public: Business or other financial institutions.

Estimated Number of Respondents: 600.

Estimated Time per Response: 10 minutes.

Total Annual Burden: 99.96 hours.

General Description of Collection: Prior to an offer of employment, job applicants to the FDIC must sign a certification that they have not been convicted of a felony or been in other circumstances that prohibit a person from becoming employed by or providing services to FDIC.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of these collections. All comments will become a matter of public record.

Dated at Washington, DC, this 12th day of March, 2009.

Valerie J. Best,

Assistant Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. E9–5817 Filed 3–17–09; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register** . Copies of agreements are available through the Commission's Web site (*http://www.fmc.gov*) or contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 011928–004.

Title: Maersk Line/HLAG Slot Charter Agreement.

Parties: A.P. Moller-Maersk A/S and Hapag-Lloyd AG.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street NW., Suite 900; Washington, DC 20036.

Synopsis: The amendment adds language to the agreement regarding responsibility for certain types of costs and extends the duration of the agreement.

Agreement No.: 011982–003.

Title: Evergreen Line Joint Service Agreement.

Parties: Evergreen Marine (Hong Kong) Ltd.; Evergreen Marine Corp. (Taiwan) Ltd.; Evergreen Marine (UK) Ltd.; and Italia Marittima S.P.A.

Filing Party: Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow and Textor LLP; 61 Broadway, Suite 3000; New York, NY 10006–2802.

Synopsis: The amendment would add Evergreen Marine (Singapore) as a party to the agreement.

By Order of the Federal Maritime Commission.

Dated: March 13, 2009.

Karen V. Gregory,

Secretary.

[FR Doc. E9–5849 Filed 3–17–09; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/address	Date reissued
016207N	Admiral Overseas Shipping Company, Inc., 323 S. Swing Road, Greensboro, NC 27409	January 24, 2009.
003072F	General International Freight Forwarders, Inc., 200 W. Thomas Street, Suite 430, Seattle, WA 98119	December 26, 2008.
017381N	HPK Logistics (USA) Inc., 727 Brea Canyon Road, Suite 14, Walnut, CA 91789	January 29, 2009.
004440N	Sunwood International, Inc., 11222 S. LaCienega Blvd., Suite 445, Inglewood, CA 90304	December 20, 2008.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E9–5856 Filed 3–17–09; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transnsportation Intermediaries, 46 CFR Part 515, effective on the corresponding date shown below:

License Number: 001337F.
Name: American International Freight Forwarders Inc.
Address: 4416 NW 74th Ave., Miami, FL 33166.
Date Revoked: February 5, 2009.
Reason: Failed to maintain a valid bond.

License Number: 002399F.
Name: Boston Bay Brokers, Inc.
Address: 88 Black Falcon Ave., Ste. 307, Boston, MA 02210.
Date Revoked: February 19, 2009.
Reason: Failed to maintain a valid bond.

License Number: 019059N.
Name: Alliance Logistics, Inc.
Address: 2225 W. Commonwealth Ave., Ste. 103, Alhambra, CA 91803.
Date Revoked: February 19, 2009.
Reason: Failed to maintain a valid bond.

License Number: 019568N.
Name: Allport (USA), Inc.
Address: 144 E. Javelin Street, Carson, CA 90745.
Date Revoked: February 5, 2009.
Reason: Failed to maintain a valid bond.

License Number: 011064N.
Name: American Worldwide Shipping Company, Inc.
Address: 7651 W. 41st Ave., Ste. 101, Wheat Ridge, CO 80033.
Date Revoked: February 12, 2009.
Reason: Failed to maintain a valid bond.

License Number: 003317NF.
Name: Cargamericas Forwarding Services, Inc.
Address: 6801 NW 82nd Ave., Miami, FL 33166.
Date Revoked: February 27, 2009.
Reason: Failed to maintain valid bonds.

License Number: 019727F.
Name: Cargo Logistics LLC.
Address: 3294 Ashley Phosphate Rd., Ste. 2C, North Charleston, SC 29418.
Date Revoked: February 9, 2009.
Reason: Surrendered license voluntarily.

License Number: 020825F.
Name: Global Connection Logistics, Inc.
Address: 2209 NW 79th Ave., Miami, FL 33126.
Date Revoked: February 9, 2009.
Reason: Failed to maintain a valid bond.

License Number: 014886NF.
Name: Good One Express (CHI) Inc.
Address: 1001 Nicholas Blvd., #A, Elk Grove Village, IL 60007.
Date Revoked: February 19, 2009.
Reason: Failed to maintain valid bonds.

License Number: 020606NF.
Name: Inter Continental Transportation Corp dba ICTC.
Address: 11788 W. Sample Rd., Ste. 105, Coral Springs, FL 33065.
Date Revoked: February 20, 2009.
Reason: Failed to maintain valid bonds.

License Number: 000751N.
Name: International Forwarders, Inc.
Address: 1350 Ashley River Rd., Charleston, SC 29407–5347.
Date Revoked: January 22, 2009.
Reason: Surrendered license voluntarily.

License Number: 003953F.
Name: Janise Kae Disbrow dba J.B. Max International Forwarding Services.
Address: 5008 58th St., Ct. E., Tacoma, WA 98443.
Date Revoked: February 4, 2009.
Reason: Surrendered license voluntarily.

License Number: 014830N.
Name: K.K. Car Co., Inc.
Address: 929 So., Dixie Highway, Lake Worth, FL 33460.
Date Revoked: February 2, 2009.
Reason: Surrendered license voluntarily.

License Number: 020780N.
Name: Kevin Jung dba U.S. Global Logistics.
Address: 540 S. Catalina St., Suite 209, Los Angeles, CA 90020.
Date Revoked: February 26, 2009.
Reason: Surrendered license voluntarily.

License Number: 020498NF.
Name: KP Freight, LLC dba BOCA Logistics dba Coastal Forwarding.
Address: 851 Appleby St., Boca Raton, FL 33487.
Date Revoked: February 12, 2009 and January 22, 2009.
Reason: Failed to maintain a valid bond.

License Number: 021158NF.
Name: KYN International Inc.
Address: 9710 NW. 110th Ave., Ste. 6, Miami, FL 33178.
Date Revoked: February 25, 2009.
Reason: Failed to maintain valid bonds.

License Number: 020055F.
Name: Legero International Houston, Inc.
Address: 2502 Farrell Rd., Houston, TX 77073.
Date Revoked: February 27, 2009.
Reason: Failed to maintain a valid bond.

License Number: 019643NF.
Name: Sigma Logistics, Inc.
Address: 1100 S. El Molino Ave., Pasadena, CA 91106.
Date Revoked: February 8, 2009.
Reason: Failed to maintain valid bonds.

License Number: 020598N.
Name: Sola Forwarding Inc.
Address: 171 West St., Brooklyn, NY 11222.
Date Revoked: February 11, 2009.
Reason: Failed to maintain a valid bond.

License Number: 001679F.
Name: TSI Transport Services International, Ltd.
Address: 2175 Wantagh Ave., Ste. 108, Wantagh, NY 11793–3915.
Date Revoked: February 11, 2009.
Reason: Failed to maintain a valid bond.

License Number: 019543N.
Name: Ultimate Logistics, Inc.
Address: 3121 W. Hallandale Beach Blvd., Ste. 113, Pembroke Park, FL 33009.
Date Revoked: February 4, 2009.
Reason: Surrendered license voluntarily.

License Number: 012895N.
Name: United Trans-Trade, Inc.
Address: 2227 U.S. Hwy. No. 1, #168, North Brunswick, NJ 08902.
Date Revoked: February 2, 2009.
Reason: Surrendered license voluntarily.

License Number: 002235F.
Name: WTS of Houston, Inc.
Address: 15900 Morales Rd., Houston, TX 77032.
Date Revoked: February 25, 2009.
Reason: Surrendered license voluntarily.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E9–5846 Filed 3–17–09; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 13, 2009.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Community State Bank Employee Stock Ownership Plan and Trust, Union Grove, Wisconsin, to acquire additional voting shares, for a total of up to 40 percent of the voting shares of Union Bancorporation, Inc., and thereby indirectly acquire additional voting shares of Community State Bank, both of Union Grove, Wisconsin.

Board of Governors of the Federal Reserve System, March 13, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–5819 Filed 3–17–09; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10141]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Prescription Drug Benefit Plan Program; *Use:* Part D plans use the information discussed to comply with the eligibility and associated Part D participating requirements. CMS will use this information to approve contract applications, monitor compliance with contract requirements, make proper payment to plans, and to ensure that correct information is disclosed to enrollees, both potential enrollees and enrollees. *Form Number:* CMS–10141 (OMB#: 0938–0964); *Frequency:* Reporting—Quarterly, Semi-annually and Yearly; *Affected Public:* Business or other for-profits and Individuals or households; *Number of Respondents:* 19,937,772; *Total Annual Responses:* 38,152,764; *Total Annual Hours:* 34,730,676. (For policy questions regarding this collection contact Eugenia Mattison-Gibson at 410–786–2564. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *May 18, 2009:*

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: March 11, 2009.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E9–5829 Filed 3–17–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Refugee Data Submission System for Formula Funds Allocations.

OMB No.: 0970–0043.

Description: The information collection of Refugee Data Submission System for Formula Funds Allocations replaces the ORR–11 Refugee State of Origin Report and is designed to satisfy the statutory requirements of the Immigration and Nationality Act (INA). Section 412(a)(3) of the Act requires the Director of the Office of Refugee Resettlement (ORR) to make a periodic assessment, based on refugee population and other relevant factors, of the relative needs of refugees for assistance and services and the resources available to meet those needs. This includes compiling and maintaining data on the secondary migration of refugees within the United States after arrival. Further,

INA 412(c)(1)(B) states that formula funds shall be allocated based on the total number of refugees, taking into account secondary migration.

In order to meet the statutory requirements, ORR requires each state to submit disaggregated individual records containing certain data elements for eligible refugee populations. This revised collection differs from the ORR–11 Refugee State-of-Origin Report process, whereby states submitted the ORR–11 form containing aggregate data on the number of refugees and entrants served whose ''area numbers'' (the first three digits of the social security number) fell into each of several designated numerical ranges. ORR used the information on the ORR–11 to measure secondary migration for the purposes of formula funds allocation to states. The revision is proposed due to the realization that:

(1) The Social Security Administration states that the first three digits of social security numbers (area number) should not be used for any other purpose than as an individual identifier for book-keeping purposes.

(2) It is possible for individuals to apply for Social Security Numbers from any Social Security office, not just offices in the state in which they were born or first resided. This is particularly likely in metropolitan statistical areas where individuals may live in one of several states (e.g., the Washington Metropolitan Area). In these cases, the area number of the Social Security Number may be unreliable as a measure of refugees' state of initial resettlement.

(3) In recent years, the Social Security Administration has begun to issue Social Security Numbers whose area number is not connected to any specific state.

The submission of individual records via the Refugee Data Submission System for Formula Funds Allocations Web site is a more reliable and secure process for collecting data for the purposes of tracking secondary migration and allocating formula funds. Data submitted by the States via the secure Web site are compiled and analyzed by the ORR statistician for the purpose of refugee secondary services formula funds allocation. The statistician also prepares a summary report, which is included in ORR's Annual Report to Congress.

Respondents: States and the District of Columbia.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Refugee Data Submission for Formula Funds Allocations	50	1	20	1,000

Estimated Total Annual Burden Hours: 1,000.

Additional Information: Copies of the proposed collection may be obtained 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. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project.

Fax: 202–395–6974.

Attn: Desk Officer for the Administration for Children and Families.

Dated: March 13, 2009.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. E9–5814 Filed 3–17–09; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2004–N–0451]

Food and Drug Administration Modernization Act of 1997: Modifications to the List of Recognized Standards, Recognition List Number: 021

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a publication containing modifications the agency is making to the list of standards FDA recognizes for use in premarket reviews (FDA recognized consensus standards). This publication, entitled ''Modifications to the List of Recognized Standards, Recognition List Number: 021'' (Recognition List Number: 021), will assist manufacturers who elect to declare conformity with consensus standards to meet certain requirements for medical devices.

DATES: Submit written or electronic comments concerning this document at any time. See section VII of this document for the effective date of the recognition of standards announced in this document.

ADDRESSES: Submit written requests for single copies of ''Modifications to the List of Recognized Standards, Recognition List Number: 021'' to the Division of Small Manufacturers, International and Consumer Assistance, Center for Devices and Radiological Health (HFZ–220), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your requests, or fax your request to 240–276–3151. Submit written comments concerning this document, or recommendations for additional standards for recognition, to the contact person (see **FOR FURTHER INFORMATION CONTACT**). Submit electronic comments by e-mail: *standards@cdrh.fda.gov*. This document may also be accessed on FDA's Internet site at *http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfTopic/cdrhnew.cfm*. See section VI of this document for electronic access to the searchable database for the current list of FDA recognized consensus standards, including Recognition List Number: 021 modifications and other standards related information.

FOR FURTHER INFORMATION CONTACT: Carol L. Herman, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 7520 Standish Place, Rockville, MD 20855, 240–276–8714.

SUPPLEMENTARY INFORMATION:

I. Background

Section 204 of the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Public Law 105–115) amended section 514 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360d). Amended section 514 allows FDA to recognize consensus standards developed by international and national organizations for use in satisfying portions of device premarket review submissions or other requirements.

In a notice published in the **Federal Register** of February 25, 1998 (63 FR 9561), FDA announced the availability of a guidance entitled ''Recognition and Use of Consensus Standards.'' The notice described how FDA would implement its standard recognition program and provided the initial list of recognized standards.

Modifications to the initial list of recognized standards, as published in the **Federal Register**, are identified in table 1.

TABLE 1—FEDERAL REGISTER CITATION

October 16, 1998 (63 FR 55617)	May 27, 2005 (70 FR 30756)
July 12, 1999 (64 FR 37546)	November 8, 2005 (70 FR 67713)
November 15, 2000 (65 FR 69022)	March 31, 2006 (71 FR 16313)
May 7, 2001 (66 FR 23032)	June 23, 2006 (71 FR 36121)
January 14, 2002 (67 FR 1774)	November 3, 2006 (71 FR 64718)
October 2, 2002 (67 FR 61893)	May 21, 2007 (72 FR 28500)
April 28, 2003 (68 FR 22391)	September 12, 2007 (72 FR 52142)
March 8, 2004 (69 FR 10712)	December 19, 2007 (72 FR 71924)
June 18, 2004 (69 FR 34176)	September 9, 2008 (73 FR 52358)
October 4, 2004 (69 FR 59240)	

These notices describe the addition, withdrawal, and revision of certain standards recognized by FDA. The agency maintains ''hypertext markup language (HTML)'' and ''portable document format (PDF)'' versions of the list of ''FDA Recognized Consensus Standards.'' Both versions are publicly accessible at the agency's Internet site. See section VI of this document for electronic access information. Interested persons should review the supplementary information sheet for the standard to understand fully the extent to which FDA recognizes the standard.

II. Modifications to the List of Recognized Standards, Recognition List Number: 021

FDA is announcing the addition, withdrawal, correction, and revision of certain consensus standards the agency will recognize for use in satisfying premarket reviews and other requirements for devices. FDA will incorporate these modifications in the list of FDA Recognized Consensus Standards in the agency's searchable database. FDA will use the term ''Recognition List Number: 021'' to identify these current modifications.

In table 2 of this document, FDA describes the following modifications: (1) The withdrawal of standards and their replacement by others; (2) the correction of errors made by FDA in listing previously recognized standards; and (3) the changes to the supplementary information sheets of recognized standards that describe revisions to the applicability of the standards.

In section III of this document, FDA lists modifications the agency is making that involve the initial addition of standards not previously recognized by FDA.

TABLE 2

Old Recognition No.	Replacement Recognition No.	Standard	Change
A. Anesthesia			
1–49		ASTM F 1981–99 Standard Specification for Suction Catheters for use in the Respiratory Tract	Withdrawn
1–63	1–77	CGA V–1:2005 Standard for Compressed Gas Cylinder Valve Outlet and Inlet Connection	Withdrawn and replaced with newer version
1–64	1–78	ASME PVHO–1–2007 Safety Standard for Pressure Vessels for Human Occupancy	Withdrawn and replaced with newer version

TABLE 2—Continued

Old Recognition No.	Replacement Recognition No.	Standard	Change
1–71		ISO 10651–5:2006 Lung Ventilators for Medical Use—Particular requirements for Basic Safety and Essential Performance—Part 5: Gas-powered Emergency Resuscitators	Withdrawn duplicate
1–74		ISO 5360:2006 Anaesthetic Vaporizers—Agent Specific Filling Systems	Contact person
1–76	1–79	ISO 26825:2008 (E) Anaesthetic And Respiratory Equipment—User-Applied Labels For Syringes Containing Drugs Used During Anaesthesia—Colours, Design and Performance	Withdrawn and replaced with newer version
B. Biocompatibility			
2–71	2–133	ASTM F1408–97 (2008) Standard Practice for Subcutaneous Screening Test for Implant Materials	Withdrawn and replaced with newer version
2–73	2–134	ASTM F2065–00(2006) Standard Practice for Testing for Alternative Pathway Complement Activation in Serum by Solid Materials	Withdrawn and replaced with newer version
2–87		AAMI/ANSI/ISO 10993–10:2002 Biological Evaluation of Medical Devices—Part 10: Tests for Irritation and Delayed-Type Hypersensitivity	Extent of Recognition, Relevant Guidance, and Contact Person
2–88	2–135	AAMI/ANSI/ISO 10993–12:2007 Biological Evaluation of Medical Devices—Part 12: Sample Preparation and Reference Materials	Withdrawn and replaced with newer version
2–127		ANSI/AAMI BE 78:2002/A1:2006 Biological Evaluation of Medical Devices—Part 10: Tests For Irritation and Delayed-Type Hypersensitivity—Amendment 1	Withdrawn
C. Cardiovascular/Neurology			
3–67		ASTM F2129–06 Standard Test Method for Conducting Cyclic Potentiodynamic Polarization Measurements to Determine the Corrosion Susceptibility of Small Implant Devices	Offices, Devices Affected, Relevant Guidance, CFR Citation and Product Codes, Contact Person
D. General Hospital/General Plastic Surgery			
6–29		IEC 60601–2–19 1996–10: Amendment 1—Medical Electrical Equipment Part 2: Particular Requirements for Safety of Baby Incubators	Relevant guidance
6–32		IEC 60601–2–20 1996–10: Amendment 1—Medical Electrical Equipment Part 2: Particular Requirements for the Safety Of Transport Incubators	Relevant guidance
6–62		ISO 8536–6:1995 Infusion Equipment for Medical Use—Part 6: Freeze Drying Closures for Infusion Bottles	Relevant guidance
6–63		ISO 8536–7–1999: Infusion Equipment for Medical Use—Part 7: Caps Made of Aluminum-Plastics Combinations For Infusion Bottles	Relevant guidance
6–64		ISO 8536–3–1999, Infusion Equipment for Medical Use—Part 3: Aluminum Caps for Infusion Bottles	Relevant guidance
6–119		ANSI/AAMI BF7:1989/(R)2002/(R)2007 Blood Transfusion Micro-Filters	Reaffirmation 2007, Title, SDO, Date of standard, Relevant guidance
6–122		ISO 8536–5–2004:, Infusion Equipment for Medical Use—Part 5: Burette Infusion Sets for Single Use, Gravity Feed	Relevant guidance
6–127		ISO 1135–4–2004: Transfusion Equipment for Medical Use—Part 4: Transfusion Sets for Single Use	Relevant guidance
6–142		ANSI/AAMI II36:2004 Medical Electrical Equipment—Part 2: Particular Requirements for Safety of Baby Incubators	Title, Relevant guidance
6–143		ANSI/AAMI II51:2004, Medical Electrical Equipment—Part 2: Particular Requirements for Safety of Transport Incubators	Title, Relevant guidance

TABLE 2—Continued

Old Recognition No.	Replacement Recognition No.	Standard	Change
6–172		ISO 8536–1:2006 Infusion Equipment for Medical Use—Part 1: Infusion Glass Bottles	Relevant guidance
6–173		ISO 8536–2:2001 Corrigendum 1:2003, Infusion Equipment for Medical Use—Part 2: Closures for Infusion Bottles	Relevant guidance
6–182		IEC 60601–2–38 1996/Amendment 1:1999, Medical Electrical Equipment—Part 2–38: Particular Requirements for the Safety of Electrically Operated Hospital Beds	Relevant guidance
6–201		ISO 8536–4:2007 Infusion Equipment for Medical Use—Part 4: Infusion Sets for Single Use, Gravity Feed	Relevant guidance
6–215		ASTM F2132–01(2008)E1 Standard Specification for Puncture Resistance of Materials Used in Containers for Discarded Medical Needles and Other Sharps	Title
E. IVD			
7–138	7–169	CLSI M27–A3 Reference Method for Broth Dilution Antifungal Susceptibility Testing of Yeasts	Withdrawn and replaced with newer version
7–54		CLSI D12–A2, Immunoprecipitin Analyses: Procedures for Evaluating the Performance of Materials—Second Edition; Approved Guideline	Title
7–71		CLSI H15–A3, Reference and Selected Procedures for the Quantitative Determination of Hemoglobin in Blood; Approved Standard—Third Edition	Contact person
7–145		CLSI H42–A2, Enumeration of Immunologically Defined Cell Populations by Flow Cytometry.	Contact person
7–73	7–170	CLSI ILA21–A2 Clinical Evaluation of Immunoassays	Withdrawn and replaced with newer version
7–130		CLSI H20–A2, Reference Leucocyte Differential Count (Proportional) and Evaluation of Instrumental Methods; Approved Standard—Second Edition	Contact person
7–164		CLSI GP 28–A Microwave Device Use in the Histology Laboratory; Approved Guideline	Contact person
7–168	7–171	CLSI M38–A2 Reference Method for Broth Dilution Antifungal Susceptibility Testing of Filamentous Fungi	Withdrawn and replaced with newer version
F. Neurology			
3–3	17–1	AAMI NS28:1988/(R) 2006 Intracranial Pressure Monitoring Devices	Transferred, Date of standard, Extent of recognition, Relevant guidance
3–32	17–2	ASTM F1542–94(2000) Standard Specification for the Requirements and Disclosure of Self-Closing Aneurysm Clips	Transferred, Offices, Type of standard, Extent of recognition, Relevant guidance, Contact person
3–33	17–3	ISO 7197:2006 Neurosurgical implants—Sterile, Single-use hydrocephalus Shunts and Components	Transferred—Withdrawn and replaced with newer version
3–39	17–4	ASTM F647–94(2006) Standard Practice for Evaluating and Specifying Implantable Shunt Assemblies for Neurosurgical Application	Transferred—Withdrawn and replaced with newer version
3–60	17–5	IEC 60601–2–10 1987/Amendment 1 2001 Medical Electrical Equipment—Part 2–10: Particular Requirements for the Safety of Nerve and Muscle Stimulators	Transferred, Title change, Date of standard, Relevant guidance, Contact person
3–67	17–6	ASTM F2129–06 Standard Test Method for Conducting Cyclic Potentiodynamic Polarization Measurements to Determine the Corrosion Susceptibility of Small Implant Devices	Offices, Devices affected, Type of Standard, Product code, Relevant guidance, Contact person
G. OB-GYN/Gastroenterology			

TABLE 2—Continued

Old Recognition No.	Replacement Recognition No.	Standard	Change
9–30	9–55	ANSI/ AAMI RD62:2006 Water Treatment Equipment for Hemodialysis Applications	Withdrawn and replaced with newer version
9–32	9–56	ASTM D3492–08 Standard Specification for Rubber Contraceptives (Male Condoms)	Withdrawn and replaced with newer version
9–34		ISO 4074:2002/Cor.1:2003(E): Natural Latex Rubber Condoms—Requirements and Test Methods, Technical Corrigendum 1	Extent of recognition, Product codes, Relevant guidance
H. Radiology			
12–48		AIUM AOL, Acoustic Output Labeling Standard for Diagnostic Ultrasound Equipment: A Standard for How Manufacturers Should Specify Acoustic Output Data	Relevant guidance
12–55	12–186	IEC 60601–2–29 (2008) Medical Electrical Equipment—Part 2–29: Particular Requirements for the Basic Safety and Essential Performance of Radiotherapy Simulators—Third Edition	Withdrawn and replaced with newer version
12–66		AIUM MUS, Medical Ultrasound Safety	Relevant guidance
12–96	12–187	NEMA MS 3–2008 Determination of Image Uniformity in Diagnostic Magnetic Resonance Images	Withdrawn and replaced with newer version
12–97	12–188	NEMA MS 1–2008 Determination of Signal-to-Noise Ratio (SNR) in Diagnostic Magnetic Resonance Imaging	Withdrawn and replaced with newer version
12–100		NEMA UD 3–2004, Standard for Real Time Display of Thermal and Mechanical Acoustic Output Indices on Diagnostic Ultrasound Equipment	Relevant guidance
12–105		NEMA UD 2–2004, Acoustic Output Measurement Standard for Diagnostic Ultrasound Equipment Version 3	Title, Relevant guidance
12–139		AIUM AOMS–2005, Acoustic Output Measurement Standard for Diagnostic Ultrasound Equipment	Relevant guidance
12–140		AIUM RTD1–2005, Standard for Real-Time Display of Thermal and Mechanical Acoustic Output Indices on Diagnostic Ultrasound Equipment Revision 1	Relevant guidance
12–161	12–189	IEC 60601–2–33 (2008) Medical Electrical Equipment—Part 2–33: Particular Requirements for the Safety of Magnetic Resonance Equipment for Medical Diagnosis Consolidated Edition 2.2	Withdrawn and replaced with a newer version
12–182		IEC 60601–2–37:2007, Medical Electrical Equipment—Part 2–37: Particular Requirements for the Basic Safety and Essential Performance of Ultrasonic Medical Diagnostic and Monitoring Equipment	Relevant guidance
12–184	12–190	IEC 61217 (2008) Radiotherapy Equipment—Coordinates, Movements, and Scales Consolidated Edition 1.2	Withdrawn and replaced with newer version
I. Sterility			
14–120	14–257	ASTM D3078—02(2008) Standard Test Method for Determination of Leaks in Flexible Packaging by Bubble Emission	Withdrawn and replaced with newer version
14–148	14–258	ASTM F2250—03(2008) Standard Practice for Evaluation of Chemical Resistance of Printed Inks and Coatings on Flexible Packaging Materials	Withdrawn and replaced with newer version
14–149	14–259	ASTM F2251—03(2008) Standard Test Method for Thickness Measurement of Flexible Packaging Material	Withdrawn and replaced with newer version
14–150	14–260	ASTM F2252—03(2008) Standard Practice for Evaluating Ink or Coating Adhesion to Flexible Packaging Materials Using Tape	Withdrawn and replaced with newer version
J. Tissue Engineering			
15–11	15–13	ASTM F2212–02(2008)e1, Standard Guide for Characterization of Type I Collagen as a Starting Material for Surgical Implants and Substrates for Tissue Engineered Medical Products	Withdrawn and replaced with newer version

III. Listing of New Entries

In table 3 of this document, FDA provides the listing of new entries and consensus standards added as modifications to the list of recognized standards under Recognition List Number: 021.

TABLE 3

Recognition No.	Title of Standard	Reference No. & Date
A. Dental/ENT		
4–160	Maximum Permissible Ambient Noise Levels for Audiometric Test Rooms	ANSI ASA S3.1–1999 (R 2003)
4–161	Method for Measuring the Intelligibility of Speech Over Communication Systems	ANSI ASA S3.2–1989 (R 1999)
4–162	Procedure for the Computation of Loudness of Steady Sounds	ANSI ASA S3.4–2007
4–163	Methods for Calculation of the Speech Intelligibility Index	ANSI ASA S3.5–1997 (R 2007)
4–164	Method for Coupler Calibration of Earphones	ANSI ASA S3.7–1995 (R 2003)
4–165	Mechanical Coupler for Measurement of Bone Vibrators	ANSI ASA S3.13–1987 (R 2007)
4–166	Bioacoustical Terminology	ANSI ASA S3.20–1995 (R 2003)
4–167	Methods for Manual Pure-Tone Threshold Audiometry	ANSI ASA S3.21–2004
4–168	Occluded Ear Simulator	ANSI ASA S3.25–1989 (R 2003)
4–169	Method of Measurement of Performance Characteristics of Hearing Aids under Simulated Real-Ear Working Conditions	ANSI ASA S3.35–2004
4–170	Specification for a Manikin for Simulated *in situ* Airborne Acoustic Measurements	ANSI ASA S3.36–1985 (R 2006)
4–171	Preferred Earhook Nozzle Thread for Postauricular Hearing Aids	ANSI ASA S3.37–1987 (R 2007)
4–172	Testing Hearing Aids with a Broad-Band Noise Signal	ANSI ASA S3.42–1992 (R 2007)
4–173	Determination of Occupational Noise Exposure and Estimation of Noise-Induced Hearing Impairment	ANSI ASA S3.44–1996 (R 2006)
4–174	Procedures for Testing Basic Vestibular Function	ANSI ASA S3.45–1999
4–175	Methods of Measurement of Real-Ear Performance Characteristics of Hearing Aids	ANSI ASA S3.46–1997 (R 2002)
4–176	Criteria for Evaluating Room Noise	ANSI ASA S12.2–1995 (R 1999)
4–177	Rating Noise with Respect to Speech Interference	ANSI ASA S12.65–2006
B. General		
5–45	Standard Practice for Performance Testing of Packages for Single Delivery Systems	ASTM D7386–08
C. IVD		
7–172	Defining, Establishing, and Verifying Reference Intervals in the Clinical Laboratory	C28–P3
7–173	Harmonization of Glycohemoglobin Measurements	C44–A
7–174	Estimation of Total Analytical Error for Clinical Laboratory	EP21–A
7–175	Apolipoprotein Immunoassays: Development and Recommended Performance Characteristics	ILA15–A
7–176	Immunoassay Interference by Endogenous Antibodies	ILA30–A

TABLE 3—Continued

Recognition No.	Title of Standard	Reference No. & Date
7–177	Performance Standards for Antimicrobial Susceptibility Testing	M100–S18
7–178	Quality Control for Commercially Prepared Microbiological Culture Media	M22–A3
7–179	Reference Method for Broth Dilution Antifungal Susceptibility Testing of Yeasts	M27–S3
7–180	Western Blot Assay for Antibodies to Borrelia burgdorferi	M34–A
7–181	Abbreviated Identification of Bacteria and Yeasts	M35–A
7–182	Clinical Use and Interpretation of Serologic Tests for Toxoplasma gondii	M36–A
7–183	Reference Method for Broth Dilution Antifungal Susceptibility Testing of Filamentous Fungi	M38–A2
7–184	Quality Control of Microbiological Transport Systems	M40–A
7–185	Viral Culture	M41–A
7–186	Methods for Antifungal Disk Diffusion Susceptibility Testing	M44–A
7–187	Zone Diameter Interpretive Standards, Corresponding Minimal Inhibitory Concentration (MIC) Interpretive Breakpoints, and Quality Control Limits for Antifungal Disk Diffusion Susceptibility Testing of Yeast	M44–S2
7–188	Methods for Antimicrobial Dilution and Disk Susceptibility Testing of Infrequently Isolated or Fastidious Bacteria	M45–A
7–189	Principles and Procedures for Blood Cultures	M47–A
7–190	Quality Control for Commercial Microbial Identification Systems	M50–A
7–191	Collection, Transport, Preparation, and Storage of Specimens	MM13–A
7–192	Interpretive Criteria for Identification of Bacteria and Fungi by DNA Target Sequencing	MM18–A
7–193	Evaluation of the Linearity of Quantitative Measurement	EP06–A
7–194	Protocols for Determination of Limits of Detection and Limits of Quantitation	EP17–A
D. Neurology		
17–7	Neurosurgical implants—Sterile, Single-use Hydrocephalus Shunts and Components	ISO 7197:2006/Technical Corrigendum1:2007
E. OB-GYN/Gastroenterology		
9–57	Natural Latex Rubber Condoms—Requirements and Test Methods, Technical Corrigendum 2	ISO 4074:2002/Cor.2:2008(E)
F. Ophthalmic		
10–58	Laser Systems for Corneal Reshaping	ANSI Z80.11–2007
G. Radiology		
12–191	Ultrasonics—Field Characterization—Test Methods for the Determination of Thermal and Mechanical Indices Related to Medical Diagnostic Ultrasonic Fields	IEC 62359:2005
H. Software/Informatic		
13–25	Managing and Validating Laboratory Information Systems; Approved Guideline	CLSI AUTO8–A
13–26	Autoverification of Clinical Laboratory Test Results; Approved Guideline	CLSI AUTO10–A
13–27	IT Security of In Vitro Diagnostic Instruments and Software Systems; Approved Standard	CLSI AUTO11–A
13–28	Remote Access to Clinical Laboratory Diagnostic Devices via the Internet; Approved Standard	CLSI AUTO9–A
I. Sterility		
14–261	Sterilization of Health Care Products—Moist Heat—Part 1: Requirements for the Development, Validation, and Routine Control of a Sterilization Process for Medical Devices	ANSI/AAMI/ISO 17665–1:2006

IV. List of Recognized Standards

FDA maintains the agency's current list of FDA recognized consensus standards in a searchable database that may be accessed directly at FDA's Internet site at *http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfStandards/search.cfm*. FDA will incorporate the modifications and minor revisions described in this document into the database and, upon publication in the **Federal Register**, this recognition of consensus standards will be effective. FDA will announce additional modifications and minor revisions to the list of recognized consensus standards, as needed, in the **Federal Register** once a year, or more often, if necessary.

V. Recommendation of Standards for Recognition by FDA

Any person may recommend consensus standards as candidates for recognition under the new provision of section 514 of the act by submitting such recommendations, with reasons for the recommendation, to the contact person (See **FOR FURTHER INFORMATION CONTACT**). To be properly considered such recommendations should contain, at a minimum, the following information: (1) Title of the standard; (2) any reference number and date; (3) name and address of the national or international standards development organization; (4) a proposed list of devices for which a declaration of conformity to this standard should routinely apply; and (5) a brief identification of the testing or performance or other characteristics of the device(s) that would be addressed by a declaration of conformity.

VI. Electronic Access

You may obtain a copy of ''Guidance on the Recognition and Use of Consensus Standards'' by using the Internet. CDRH maintains a site on the Internet for easy access to information including text, graphics, and files that you may download to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page includes the guidance as well as the current list of recognized standards and other standards related documents. After publication in the **Federal Register**, this document announcing ''Modification to the List of Recognized Standards, Recognition List Number: 021'' will be available on the CDRH home page. You may access the CDRH home page at *http://www.fda.gov/cdrh*.

You may access ''Guidance on the Recognition and Use of Consensus Standards,'' and the searchable database for ''FDA Recognized Consensus Standards'' through the hyperlink at *http://www.fda.gov/cdrh/stdsprog.html*.

This **Federal Register** document on modifications in FDA's recognition of consensus standards is available at *http://www.fda.gov/cdrh/fedregin.html*.

VII. Submission of Comments and Effective Date

Interested persons may submit to the contact person (see **FOR FURTHER INFORMATION CONTACT**) written or electronic comments regarding this document. Two copies of any mailed comments are to be submitted, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. FDA will consider any comments received in determining whether to amend the current listing of modifications to the list of recognized standards, Recognition List Number: 021. These modifications to the list or recognized standards are effective upon publication of this document in the **Federal Register**.

Dated: March 10, 2009.

Daniel G. Schultz,

Director, Center for Devices and Radiological Health.

[FR Doc. E9–5858 Filed 3–17–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: National Evaluation of the Comprehensive Community Mental Health Services for Children and Their Families Program: Phase VI—NEW.

The Substance Abuse and Mental Health Services Administration (SAMHSA), Center of Mental Health Services is responsible for the national evaluation of the Comprehensive Community Mental Health Services for Children and Their Families Program (Children's Mental Health Initiative—CMHI) that will collect data on child mental health outcomes, family life, and service system development and performance. Data will be collected on 26 service systems, and approximately 5,541 children and families.

Data collection for this evaluation will be conducted over a five-year period. Child and family outcomes of interest will be collected at intake and during subsequent follow-up sessions at six-month intervals. The length of time that individual families will participate in the study ranges from 12 to 24 months depending upon when they enter the evaluation. The outcome measures include the following: Child symptomatology and functioning, family functioning, satisfaction, and caregiver strain. The core of service system data will be collected every 18–24 months throughout the 5-year evaluation period, with a sustainability survey conducted in years 3 and 5. Service utilization and cost data will be tracked and submitted to the national evaluation every six months using two tools: The Flex Fund Tool and the Services and Costs Data Tool to estimate average cost of treatment per child, distribution of costs, and allocation of costs across service categories. Service delivery and system variables of interest include the following: Maturity of system of care development in funded system of care communities, adherence to the system of care program model, and client service experience. We will also conduct a comprehensive evaluation of the CMHI's data driven technical assistance; this component of the evaluation will employ a mixed-methods approach, combining qualitative and quantitative data to provide a comprehensive assessment of the continuous quality improvement (CQI) process in funded system of care

communities. Specifically, data will be gathered through three complementary activities: A baseline survey of key constituents in all funded communities; a subsequent monitoring survey administered every two years to the same constituents; and biennial case studies of four selected communities.

In addition, the evaluation will include three special studies: (1) The sector specific assessment and quasi-experimental comparison study will examine in more detail the outcomes and service experience of children from multiple child-serving sectors and, through child-level matching, compare these outcomes with those not receiving system of care services; (2) The Alumni Network Study will examine the effectiveness of the system of care Alumni Network Web site by evaluating end-user satisfaction and usability of the Web site and will also assess the collaboration between communities via a Web-based Networking and Collaboration Survey that will measure the nature and extent of the interaction between communities; (3) The Study of State Strategies for Sustainability will examine the State's role in sustaining communities after Federal funding ceases and describe effective strategies for sustaining funded systems of care. A short version of the sustainability survey developed for this evaluation will be used to gather this information.

Internet-based technology such as Web-based surveys and data entry and management tools will be used in this evaluation. The measures of the national evaluation address the national outcome measures for mental health programs as currently established by SAMHSA.

The average annual respondent burden is estimated below. The estimate reflects the average number of respondents in each respondent category, the average number of responses per respondent per year, the average length of time it will take to complete each response, and the total average annual burden for each category of respondent, and for all categories of respondents combined.

Instrument	Respondent	Number of respondents	Total average number of responses per respondent	Hours per response	Total burden hours	5-Year average annual burden hours
System-of-care Assessment						
Interview Guides A–I, L–R	Key site informants	546	3	1.0	1,638	328
Child and Family Outcome Study						
Caregiver Information Questionnaire (CIQ–IC).	Caregiver	5,541	1	0.4	2,032	406
Caregiver Information Questionnaire Follow-up (CIQ–FC).	Caregiver	5,541	4	0.3	6,280	1,256
Caregiver Strain Questionnaire (CGSQ).	Caregiver	5,541	5	0.2	4,627	925
Child Behavior Checklist (CBCL)/ Child Behavior Checklist 1½–5/6–18.	Caregiver	5,541	5	0.3	9,226	1,845
Education Questionnaire—Revised (EQ–R).	Caregiver	5,541	5	0.3	9,226	1,845
Living Situations Questionnaire (LSQ).	Caregiver	5,541	5	0.1	2,300	460
Behavioral and Emotional Rating Scale–Second Edition, Parent Rating Scale (BERS–2C).	Caregiver	4,931	5	0.2	4,117	823
Columbia Impairment Scale (CIS).	Caregiver	4,931	5	0.1	2,046	409
Parenting Stress Index (PSI)	Caregiver	1,528	5	0.1	637	127
Deveraux Early Childhood Assessment (DECA).	Caregiver	1,528	5	0.1	637	127
Preschool Behavioral and Emotional Rating Scale—Second Edition, Parent Rating Scale (PBERS).	Caregiver	1,528	5	0.1	764	153
Delinquency Survey—Revised (DS–R).	Youth	3,452	5	0.1	2,301	460
Behavioral and Emotional Rating Scale—Second Edition, Youth Rating Scale (BERS–2Y).	Youth	3,452	5	0.2	2,882	576
Gain-Quick Substance Related Issues.	Youth	3,452	5	0.1	1,433	287
Substance Use Survey—Revised (SUS–R).	Youth	3,452	5	0.1	1,726	345
Revised Children's Manifest Anxiety Scales (RCMAS).	Youth	3,452	5	0.1	863	173
Reynolds Adolescent Depression Scale—Second Edition (RADS–2).	Youth	3,452	5	0.1	863	173
Youth information Questionnaire—Baseline (YIQ–I).	Youth	3,452	1	0.3	863	173

Instrument	Respondent	Number of respondents	Total average number of responses per respondent	Hours per response	Total burden hours	5-Year average annual burden hours
Youth information Questionnaire—Follow-up (YIQ–F).	Youth	3,452	4	0.3	3,452	690
Service Experience Study						
Multi-Sector Service Contacts—Revised—Intake (MSSC–R–I).	Caregiver	5,541	1	0.3	1,385	277
Multi-Sector Service Contacts—Revised—Follow-up (MSSC–R–F).	Caregiver	5,541	4	0.3	5,541	1,108
Cultural Competence and Service Provision Questionnaire—Revised (CCSP–R).	Caregiver	5,541	4	0.1	2,955	591
Youth Services Survey—Family (YSS–F).	Caregiver	5,541	4	0.1	2,593	519
Youth Services Survey (YSS)	Youth	3,452	4	0.1	1,146	229
Juvenile Justice Study						
Delinquency Survey—Revised—JJ Addendum (DS–R–JJ).	Youth	405	5	0.0	68	14
Court Representative Questionnaire.	Court representatives	212	5	0.2	177	35
Electronic Data Transfer of Juvenile Justice Records.	Key site personnel	212	5	0.0	35	7
Education Study						
Teacher Questionnaire	Teacher	212	5	0.3	265	53
School Administrator Questionnaire.	School administrators	212	5	0.2	177	35
Electronic Data Transfer of Education Records.	Key site personnel	212	5	0.0	35	7
Child Welfare Study						
Child Welfare Sector Study Questionnaire—Intake (CWSQ–I).	Care coordinators	487	1	0.5	244	49
Child Welfare Sector Study Questionnaire—Follow-up (CWSQ–F).	Care coordinators	487	4	0.5	974	195
Sustainability Study						
Sustainability Survey: Brief Form.	Project Director	79	2	0.2	26	5
Sustainability Survey	Providers	180	2	0.8	270	54
Sustainability Survey	Caregiver	60	2	0.8	90	18
CQI Effectiveness Evaluation						
CQI Baseline Survey, Web-based.	Key site personnel	208	1	0.5	104	21
CQI Monitoring Survey, Web-based.	Key site personnel	208	2	0.5	208	42
Local Focus Group Guide	Key site personnel	30	2	1.0	60	12
National Focus Group Guide	National TA providers	20	2	1.0	40	8
Alumni Networking Study						
Networking and Collaboration Survey.	Key site personnel	236	4	0.5	472	94
Alumni Network Satisfaction Survey.	Key site personnel, nat'l TA providers, Branch staff.	458	3	0.3	344	69
Services and Costs Study						
Flex Funds Data Dictionary/Tool.	Local programming staff compiling/entering administrative data on children/youth.	1,306	3	0.0	129	26

Instrument	Respondent	Number of respondents	Total average number of responses per respondent	Hours per response	Total burden hours	5-Year average annual burden hours
Services and Costs Data Dictionary/Data Entry Application.	Local evaluator, staff at partner agencies, and programming staff compiling/entering service and cost records on children/youth.	5,541	100	0.1	27,705	5,541

Respondent	Number of respondents	Number of responses/ respondent	Average burden/ response	Total average annual burden
Caregiver	5,541	0.9	2.2	10,891
Youth	3,452	0.9	1.0	3,119
Provider/Administrator	546	10.5	1.1	6,580
Total	9,539			20,591

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1044, One Choke Cherry Road, Rockville, MD 20857 and e-mail her a copy at *summer.king@samhsa.hhs.gov*. Written comments should be received within 60 days of this notice.

March 11, 2009.

Elaine Parry,

Director, Office of Program Services.

[FR Doc. E9–5803 Filed 3–17–09; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–WSR–2009–N0056] [91400–5110–POLI–7B and 91400–9410–POLI–7B]

Proposed Information Collection; OMB Control Number 1018–0109; Wildlife and Sport Fish Grants and Cooperative Agreements

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on June 30, 2009. 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.

DATES: Your comments must be received by May 18, 2009.

ADDRESSES: Send your comments on the IC to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); *hope_grey@fws.gov* (e-mail).

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey by mail or e-mail (see ADDRESSES) or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION:

I. Abstract

We administer 18 wildlife and sport fish financial assistance programs. We provide most of this financial assistance as grants, but cooperative agreements are possible if the Federal Government is substantially involved in carrying out the project. You can find a description of most programs in the Catalog of Domestic Federal Assistance (CDFA). For those programs without a CDFA number, see the authority.

Program	CDFA No.	Authority	Implementing Regulations
Clean Vessel Act	15.616	16 U.S.C. 777g(c)	50 CFR 85
Coastal Wetlands Planning, Protection, and Restoration Act	15.614	16 U.S.C. 3951–3956	50 CFR 84
Cooperative Endangered Species Conservation Fund	15.615	16 U.S.C. 1531 et seq.	50 CFR 81
Everglades Restoration	None	Pub. L. 104–127; 16 U.S.C. 460 l–4 - l–11.	None
Fisheries Restoration and Irrigation Mitigation	None	16 U.S.C. 777	None
Hunter Education and Safety	15.626	16 U.S.C. 669h–1	50 CFR 80
Landowner Incentive	15.633	Pub. L. 110–5	None
Multistate Conservation Grants	15.628	16 U.S.C. 669h–2; 16 U.S.C. 777m	None
National Outreach and Communication	15.653	16 U.S.C. 777g(d)	None
Research Grants (Generic)	15.650	16 U.S.C. 753a; 16 U.S.C. 460(l–4 - l–11);16 U.S.C. 1531–1543.	None
Service Training and Technical Assistance (Generic Training)	15.649	16 U.S.C. 661 and 16 U.S.C. 742f	None
Sport Fish Restoration	15.605	16 U.S.C. 777–777n (except 777e–1)	50 CFR 80
Sportfishing and Boating Safety Act (Boating Infrastructure Grants)	15.622	16 U.S.C. 777g and g–1	50 CFR 86
State Wildlife Grants	15.634	Pub. L. 110–329	None
Tribal Landowner Incentive	15.638	Pub. L. 110–5	None
Tribal Wildlife Grants	15.639	Pub. L. 110–329	None
Wildlife Conservation and Restoration	15.625	16 U.S.C. 669b and 669c	None

Program	CDFA No.	Authority	Implementing Regulations
Wildlife Restoration	15.611	16 U.S.C. 669–669k	50 CFR 80

To compete for financial assistance funds, you must submit an application that describes in substantial detail project locations, benefits, funding, and other characteristics. Materials to assist applicants in formulating project proposals are available on Grants.gov. We use the application to determine:

(1) Eligibility for the grant.

(2) The scale of resource values or relative worth of the project.

(3) The effect of the project on environmental and cultural resources.

(4) How well the proposed project will meet the purposes of the program's establishing legislation.

Persons or entities receiving grants must submit periodic performance reports that contain information necessary for us to track costs and accomplishments.

II. Data

OMB Control Number: 1018–0109.

Title: Wildlife and Sport Fish Grants and Cooperative Agreements, 50 CFR 80, 81, 84, 85, and 86.

Service Form Number(s): None.

Type of Request: Revision of a currently approved collection.

Affected Public: States; the Commonwealths of Puerto Rico and the Northern Mariana Islands; the District of Columbia; the territories of Guam, U.S. Virgin Islands, and American Samoa; federally-recognized tribal governments; institutions of higher education; and nongovernmental organizations.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: We require project narrative statements annually for new or extended projects. We require amendments on occasion when key elements of a project change. We require quarterly and final performance reports in the National Outreach and Communication Program and annual and final performance reports in the other 17 programs. We may require more frequent reports in the other 17 programs under the conditions stated at 43 CFR 12.52 and 43 CFR 12.914.

Activity	Number of annual respondents	Number of annual responses	Completion time per response	Annual burden hours
Initial Application (project narrative)	215	2,000	52 hours	104,000
Amendment	150	1,500	28 hours	42,000
Performance Reports	215	6,000	11 hours	66,000
Totals	580	9,500		212,000

III. Request for Comments

We invite comments concerning this IC on:

(1) Whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this 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.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: March 3, 2009

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

FR Doc. E9–5794 Filed 3–17–09; 8:45 am

BILLING CODE 4310–55–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R9-MB-2009-N0062] [91200-1232-0000-P2]

Proposed Information Collection; OMB Control Number 1018-0133; Control and Management of Resident Canada Geese

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service, Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on August 31, 2009. 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.

DATES: Your comments must be received by May 18, 2009.

ADDRESSES: Send your comments on the IC to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); *hope_grey@fws.gov* (e-mail).

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey by mail or e-mail (see ADDRESSES) or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Migratory Bird Treaty Act prohibits the take, possession, import, export, transport, sale, purchase, or bartering of migratory birds or their parts except as permitted under the terms of a valid permit or as permitted by regulations. In 2006, we issued regulations establishing two depredation orders and three control orders that allow State and tribal wildlife agencies, private landowners, and airports to conduct resident Canada goose population management, including the take of birds. The Service monitors the data collected for activities

under these orders and may rescind an order if monitoring indicates that activities are inconsistent with conservation of Canada geese.

Control order for airports. In the Code of Federal Regulations (CFR), 50 CFR 21.49 allows managers at commercial, public, and private airports and military airfields and their employees or agents to implement management of resident Canada geese to resolve or prevent threats to public safety. An airport must be part of the National Plan of Integrated Airport Systems and have received Federal grant-in-aid assistance or be a military airfield under the jurisdiction, custody, or control of the Secretary of a military department. Each facility exercising the privileges of the order must submit an annual report with the date, numbers, and locations of birds, nests, and eggs taken.

Depredation order for nests and eggs. 50 CFR 21.50 allows private landowners and managers of public lands to destroy resident Canada goose nests and eggs on property under their jurisdiction provided they register annually on our website at https://epermits.fws.gov/eRCGR. Registrants must provide basic information, such as name, address, phone number and email, and identify where the control work will occur and who will conduct it. Registrants must return to the website at the end of the nesting season to report the number of nests with eggs they destroyed.

Depredation order for agricultural facilities. 50 CFR 21.51 allows States and tribes, via their wildlife agency, to implement a program to allow landowners, operators, and tenants actively engaged in commercial agriculture to conduct damage management control when geese are committing depredations or to resolve or prevent other injury to agricultural interests. State and tribal wildlife agencies in the Atlantic, Central, and Mississippi Flyway portions of 41 States can implement the provisions of the order. Agricultural producers must maintain a log of the date and number of birds taken under this authorization. States and tribes exercising the privileges the order grants must submit an annual report of the numbers of birds, nests, and eggs taken and the county where take occurred.

Public health control order. 50 CFR 21.52 authorizes States and tribes of the lower 48 States to conduct (via the State or tribal wildlife agency) resident Canada goose control and management activities when the geese pose a direct threat to human health. States and tribes operating under this order must submit an annual report summarizing activities, including the numbers of birds taken and the county where take occurred.

Population control. 50 CFR 21.61 establishes a managed take program to reduce and stabilize resident Canada goose populations when traditional and otherwise authorized management measures are not successful or feasible. A State or tribal wildlife agency in the Atlantic, Mississippi, or Central Flyway may request approval for this population control program. If approved, the State or tribe may use hunters to harvest resident Canada geese during the month of August. Requests for approval must include a discussion of the State's or tribe's efforts to address its injurious situations using other methods or a discussion of the reasons why the methods are not feasible. If the Service Director approves a request, the State or tribe must (1) keep annual records of activities carried out under the authority of the program, and (2) provide an annual summary, including number of individuals participating in the program and the number of resident Canada geese shot. Additionally, participating States and tribes must monitor the spring breeding population by providing an annual estimate of the breeding population and distribution of resident Canada geese in their State.

II. Data

OMB Control Number: 1018-0133.

Title: Control and Management of Resident Canada Geese, 50 CFR 20.21, 21.46, 21.50, 21.51, 21.52, and 21.61.

Service Form Number(s): None.

Type of Request: Extension of a currently approved collection.

Affected Public: State fish and wildlife agencies, tribes, and local governments; airports, and landowners.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Activity	Number of annual respondents	Number of annual responses	Completion time per response	Annual burden hours
21.49 – Airport Control Order – Annual Report	110	110	1.5 hours	165
21.50 - Nest and Egg Depredation Order – Registration	1,600	1,600	.5 hours	800
21.50 – Nest and Egg Depredation Order – Annual Report	1,600	1,600	.5 hours	800
21.51 – Agricultural Depredation Order – Recordkeeping	460	460	.5 hours	230
21.51 – Agricultural Depredation Order – Annual Report	20	20	8 hours	160
21.52 – Public Health Control Order – Annual Report	20	20	1 hour	20
21.61 – Population Control Approval Request – Record-keeping and Annual Report.	15	15	24 hours	360
21.61 – Population Control Approval Request – Monitoring	10	10	160 hours	1,600
Totals	3,835	3,835		4,135

III. Request for Comments

We invite comments concerning this IC on:

(1) Whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this 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.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: March 9, 2009

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

FR Doc. E9–5960 Filed 3–17–09; 8:45 am

BILLING CODE 4310-55-S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2009–N0055; 30120–1113–0000–F6]

Endangered and Threatened Wildlife and Plants; Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (Act) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act requires that we invite public comment before issuing these permits.

DATES: We must receive any written comments on or before April 17, 2009.

ADDRESSES: Send written comments to the Regional Director, Attn: Peter Fasbender, U.S. Fish and Wildlife Service, Ecological Services, 1 Federal Drive, Fort Snelling, MN 55111–4056; electronic mail, *permitsR3ES@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Peter Fasbender, (612) 713–5343.

SUPPLEMENTARY INFORMATION:

Background

We invite public comment on the following permit applications for certain activities with endangered species authorized by section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*) and our regulations governing the taking of endangered species in the Code of Federal Regulations at 50 CFR part 17. Submit your written data, comments, or request for a copy of the complete application to the address shown in **ADDRESSES**. When submitting comments, please refer to the appropriate permit application number.

Permit Applications

Permit Application Number TE206783

Applicant: Marlo Perdicas, Marshallville, Ohio.

The applicant requests a permit to take (capture and release) Indiana bats (*Myotis sodalis*) and gray bats (*Myotis grisescens*) across the range of the species for the purpose of population monitoring and conservation, habitat management, and data collection for monitoring of white nose syndrome. Proposed activities are for the purpose of enhancement of survival of the species in the wild.

Permit Application Number TE206781

Applicant: Ecological Specialists, Inc., O'Fallon, Missouri.

The applicant requests a permit renewal to take (capture and release) clubshell (*Pleurobema clava*), fanshell (*Cyprogenia stegaria*), fat pocketbook (*Potamilus capax*), Higgins' eye pearlymussel (*Lampsilis higginsii*), northern riffleshell (*Epioblasma torulosa rangiana*), orange-foot pimpleback pearlymussel (*Plethobasus cooperianus*), pink mucket pearlymussel (*Lampsilis abrupta*), and scaleshell (*Leptodea leptodon*),; to take (capture and relocate) Higgins' eye pearlymussel; and to take (collect dead specimens, capture and release) winged mapleleaf mussel (*Quadrula fragosa*) to determine presence or absence of the species and to relocate individuals that may be in danger of injury or stranding. Proposed activities are aimed at enhancement of the survival of the species in the wild.

Permit Application Number TE206778

Applicant: Field Supervisor, U.S. Fish and Wildlife Service, Twin Cities, Minnesota.

The applicant requests a permit renewal to take (capture and release, capture and relocate) Higgins' eye pearlymussel and winged mapleleaf mussel throughout the States of Illinois, Iowa, Minnesota, and Wisconsin for scientific study in the interest of recovery of the species. Activities include population monitoring and assessment, relocation, and mussel propagation activities at the Genoa National Fish Hatchery and in conjunction with State partners. Activities are for the enhancement of propagation and survival of the species in the wild.

Permit Application Number TE207149

Applicant: Sarah Bradley, Salem, Missouri.

The applicant requests a permit to take (capture and release) Indiana bats and gray bats throughout the Mark Twain National Forest and adjoining properties. Studies include presence or absence surveys, studies to document habitat use, and population monitoring for enhancement of recovery and survival of the species in the wild.

Permit Application Number TE207150

Applicant: Bradley Steffen, Cincinnati, Ohio.

The applicant requests a permit to take (capture and release) Indiana bats and gray bats throughout the range of the species. The activities proposed under this permit application include presence or absence surveys, studies to document habitat use, population monitoring, and evaluation of potential impacts of proposed projects. Activities are proposed for enhancement of the survival of the species in the wild.

Permit Application Number TE207154

Applicant: Michigan Department of Natural Resources, Lansing, Michigan.

The applicant requests a permit to take Karner blue butterflies within the State of Michigan on State-owned lands. Take will occur during the implementation of land management practices designed to maximize the suitability of habitat for the species that may incidentally take a limited number of individual eggs, larvae, or adult butterflies, but will result in an increase in population numbers overall. Activities are proposed to enhance the recovery and survival of the species in the wild.

Permit Application Number TE207178

Applicant: Amy Halsall, Woodridge, Illinois.

The applicant requests a permit to take (capture and release) Indiana bats within Illinois and Indiana. Proposed activities include presence or absence surveys, studies to document habitat use, population monitoring, and evaluation of project impacts in the interest of recovery and enhancement of the survival of the species in the wild.

Permit Application Number TE207180

Applicant: Division of Wildlife, Ohio Department of Natural Resources, Columbus, Ohio.

The applicant requests a permit to take (capture, breed, and release) Karner blue butterflies within the States of Ohio and Michigan. Activities include captive rearing at the Toledo Zoo and reintroduction of reared stock into the Oak Openings of Lucas County, Ohio. Activities are aimed at recovery and enhancement of the survival of the species in the wild.

Permit Application Number TE207191

Applicant: Natural Resources Research Institute, University of Minnesota, Duluth, Minnesota.

The applicant requests a permit take (capture, handle, and release) Canada lynx (*Lynx canadensis*) throughout the State of Minnesota. Proposed activities include evaluation of population health, habitat use, and survival. These proposed activities are aimed at enhancement of the survival of the species in the wild.

Permit Application Number TE207523

Applicant: The Nature Conservancy in Michigan, Lansing, Michigan.

The applicant requests a permit to take Mitchell's satyr butterfly (*Neonympha mitchellii mitchellii*) in Michigan for the purpose of population monitoring, evaluation of habitat suitability and habitat management to promote recovery of the species. Proposed activities are aimed at enhancement of survival of the species in the wild.

Permit Application Number TE207526

Applicant: U.S. Geological Survey, Columbia Environmental Science Center, Columbia, Missouri.

The applicant requests a permit to take the following fish species: Pallid Sturgeon (*Scaphirhynchus albus*), Topeka Shiner (*Notropis topeka*), and Neosho Madtom (*Noturus placidus*). Proposed activities include capture and release, propagation activities, population studies, and scientific research related to recovery of the species. Activities are aimed at enhancement of propagation and survival of the species in the wild.

Permit Application Number TE207560

Applicant: Merrill Tawse, Mansfield, Ohio.

The applicant requests a permit to take (capture and release) Indiana bats within Indiana, Kentucky, Ohio, Pennsylvania, and West Virginia. Proposed activities include presence or absence surveys, studies to document habitat use, and population monitoring in the interest of recovery and enhancement of the survival of the species in the wild.

Public Comments

We solicit public review and comments on these permit applications. Please refer to the permit number when you submit comments. Comments and materials we receive are available for public inspection, by appointment, during normal business hours at the address shown in the **ADDRESSES** section. 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.

National Environmental Policy Act (NEPA)

In compliance with NEPA (42 U.S.C. 4321 *et seq.*), we have made an initial determination that the activities proposed in these permits are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement (516 DM6 Appendix 1, 1.4C(1)).

Dated: March 3, 2009.

Lynn M. Lewis,

Assistant Regional Director, Ecological Services, Region 3.

[FR Doc. E9–5804 Filed 3–17–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2009–N0013]; [30120–1113–0000–C4]

Endangered and Threatened Wildlife and Plants; 5-Year Reviews

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of review; request for information on nine listed Midwestern species.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), initiate 5-year reviews of two threatened species (prairie bush-clover and Mead's milkweed) and seven endangered species [Scioto madtom, purple cat's paw pearlymussel, winged mapleleaf (mussel), Tumbling Creek cavesnail, Karner blue butterfly, Mitchell's satyr butterfly, and Michigan monkey-flower] under the Endangered Species Act of 1973, as amended (Act). We request any new information on each species that may have a bearing on its classification as endangered or threatened. Based on the results of these 5-year reviews, we will make a finding on whether these species are properly classified under the Act.

DATES: To allow us adequate time to conduct these reviews, we must receive your information no later than May 18, 2009. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: For instructions on how to submit information and review the information that we receive on these species, see ''Public Solicitation of New Information.''

FOR FURTHER INFORMATION CONTACT: Please contact the appropriate person under ''Public Solicitation of New Information.'' Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8337 for TTY (telephone typewriter or teletypewriter) assistance.

SUPPLEMENTARY INFORMATION: We initiate 5-year reviews of the threatened prairie bush-clover (*Lespedeza leptostachya*) and threatened Mead's milkweed (*Asclepias meadii*), as well as the endangered Scioto madtom (*Noturus trautmani*), purple cat's paw pearlymussel (*Epioblasma obliquata obliquata*), winged mapleleaf (mussel) (*Quadrula fragosa*), Tumbling Creek cavesnail (*Antrobia culveri*), Karner blue butterfly (*Lycaeides melissa samuelis*), Mitchell's satyr butterfly (*Neonympha mitchellii mitchellii*), and Michigan monkey-flower (*Mimulus glabratus* var. *michiganensis*), under the Act.

We request any new information on each species that may have a bearing on its classification as endangered or threatened. Based on the results of these 5-year reviews, we will make a finding on whether these species are properly classified under the Act.

Why Do We Conduct a 5-Year Review?

Under the Act, we maintain the List of Endangered and Threatened Wildlife and Plant Species (List) at 50 CFR 17.11 and 17.12. We amend the List by publishing final rules in the **Federal Register**. Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. Section 4(c)(2)(B) requires that we determine (1) Whether a species no longer meets the definition of threatened or endangered and should be removed from the List (delisted); (2) whether a species more properly meets the definition of threatened and should be reclassified from endangered to threatened; or (3) whether a species more properly meets the definition of endangered and should be reclassified from threatened to endangered. Using the best scientific and commercial data available, a species will be considered for delisting if the data substantiate that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation

of such data, were in error. Any change in Federal classification requires a separate rulemaking process. Therefore, we are requesting submission of any such information that has become available since the last formal status review on November 6, 1991 (56 FR 56882), for Scioto madtom, purple cat's paw pearlymussel, prairie bush-clover, Mead's milkweed and Michigan monkey-flower, and since the final rule listing (see Table 1) of winged mapleleaf mussel, Tumbling Creek cavesnail, Karner blue butterfly, and Mitchell's satyr butterfly. Based on the results of these 5-year reviews, we will make the requisite findings under section 4(c)(2)(B) of the Act.

Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under review. This notice announces initiation of our active review of the species in Table 1.

TABLE 1—SUMMARY OF LISTING INFORMATION, 6 WILDLIFE AND 3 PLANT SPECIES IN THE MIDWEST REGION

Common name	Scientific name	Status	Where listed	Final listing rule
Scioto madtom	Noturus trautmani	Endangered	U.S.A. (OH)	40 FR 544149; 10/28/1975
Purple cat's paw pearlymussel.	Epioblasma obliquata obliquata.	Endangered	U.S.A. (AL, IL, IN, KY, OH, TN).	55 FR 28209; 07/10/1990
Winged mapleleaf (mussel)	Quadrula fragosa	Endangered	U.S.A. (IA, IL, IN, KY, MN, MO, NE, OH, OK, TN, WI).	56 FR 28345; 06/20/1991
Tumbling Creek cavesnail	Antrobia culveri	Endangered	U.S.A. (MO)	67 FR 52879; 08/14/2002
Karner blue butterfly	Lycaeides melissa samuelis.	Endangered	U.S.A. (IL, IN, MA, MI, MN, NH, NY, OH, PA, WI), Canada (Ont.).	57 FR 59236; 12/14/1992
Mitchell's satyr butterfly	Neonympha mitchellii mitchellii.	Endangered	U.S.A. (IN, MI, NJ, OH)	57 FR 21564; 05/20/1992
Michigan monkey-flower	Mimulus glabratus var. michiganensis.	Endangered	U.S.A. (MI)	55 FR 25596; 06/21/1990
Prairie bush-clover	Lespedeza leptostachya	Threatened	U.S.A. (IA, IL, MN, WI)	52 FR 781; 01/09/1987
Mead's milkweed	Asclepias meadii	Threatened	U.S.A. (IA, IL, IN, KS, MO, WI).	53 FR 33992; 09/01/1988

What Information Do We Consider in Our Review?

In our 5-year review, we consider all new information available at the time of the review. These reviews will consider the best scientific and commercial data that have become available since the original listing determination or most recent status review of each species, such as—(A) Species biology, including but not limited to population trends, distribution, abundance, demographics, and genetics; (B) Habitat conditions, including but not limited to amount, distribution, and suitability; (C) Conservation measures that have been implemented to benefit the species; (D) Threat status and trends (see five factors under heading ''How do we determine whether a species is endangered or threatened?''); and (E) Other new information, data, or corrections, including but not limited to taxonomic or nomenclatural changes, identification of erroneous information contained in the List of Endangered and Threatened Wildlife and Plants, and improved analytical methods.

Public Solicitation of New Information

We request any new information concerning the status of the wildlife species Scioto madtom, purple cat's paw pearlymussel, winged mapleleaf (mussel), Tumbling Creek cavesnail, Karner blue butterfly, and Mitchell's satyr butterfly, and of the plant species prairie bush-clover, Mead's milkweed, and Michigan monkey-flower. See ''What Information Do We Consider in Our Review?'' for specific criteria. If you submit information, support it with documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources. We specifically request information regarding data from any systematic surveys, as well as any studies or analysis of data that may show population size or trends; information pertaining to the biology or ecology of the species; information regarding the effects of current land management on population distribution and abundance; information on the current condition of habitat; and recent information regarding conservation measures that have been implemented to benefit the species. Additionally, we specifically request information regarding the current distribution of populations and evaluation of threats faced by the species in relation to the five listing factors (as defined in section 4(a)(1) of the Act) and the species' listed status as judged against the definition of threatened or endangered. Finally, we solicit recommendations pertaining to the development of, or potential updates to recovery plans and additional actions or studies that would benefit these species in the future.

Our practice is to make information, including names and home addresses of respondents, available for public review. Before including your address, telephone number, e-mail address, or other personal identifying information in your response, you should be aware that your entire submission—including your personal identifying information—may be made publicly available at any time. While you can ask us in your response to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Submit all electronic information in Text or Rich Text format to *FW3MidwestRegion_5YearReview@fws.gov*. Please send information for each separate species in a separate e-mail. Provide your name and return address in the body of your message, and include the following identifier in your e-mail subject line: Information on 5-year review for [NAME OF SPECIES]. You may also view information we receive in response to this notice, as well as other documentation in our files, at the locations below by appointment, during normal business hours. Mail or hand-deliver information on the following species to the appropriate address(es) below:

Scioto madtom and *Purple cat's paw pearlymussel:* U.S. Fish and Wildlife Service, Ecological Services Field Office, 4625 Morse Road, Suite 104, Columbus, OH 43230; Attention: Ms. Angela Boyer. Direct inquiries to Ms.

Boyer at 614–416–8993 (phone) or *angela_boyer@fws.gov* (e-mail).

Winged mapleleaf (mussel) and *Prairie bush-clover:* U.S. Fish and Wildlife Service, Ecological Services Field Office, 4101 E. 80th Street, Bloomington, MN 55425–1665, Attention: Mr. Phil Delphey. Direct inquiries to Mr. Delphey at 612–725–3548 (phone) or *phil_delphey@fws.gov* (e-mail).

Tumbling Creek cavesnail: U.S. Fish and Wildlife Service, Ecological Services Field Office, 101 Park DeVille Drive, Suite A, Columbia, MO 65203–0057; Attention: Dr. Paul McKenzie. Direct inquiries to Dr. McKenzie at 573–234–2132, extension 107 (phone) or *paul_mckenzie@fws.gov* (e-mail).

Karner blue butterfly: U.S. Fish and Wildlife Service, Ecological Services Field Office, 2661 Scott Tower Drive, New Franken, WI 54229–9565; Attention: Ms. Cathy Carnes. Direct inquiries to Ms. Carnes at 920–866–1732 (phone) or *cathy_carnes@fws.gov* (e-mail).

Mitchell's satyr butterfly: U.S. Fish and Wildlife Service, Ecological Services Field Office, 2651 Coolidge Road, Suite 101, East Lansing, MI 48823–5902; Attention: Ms. Carrie Tansy. Direct inquiries to Ms. Tansy at 517–351–6289 (phone) or *carrie_tansy@fws.gov* (e-mail).

Mead's milkweed: U.S. Fish and Wildlife Service, Ecological Services Field Office, 1250 S. Grove Avenue, Suite 103, Barrington, IL 60010–5010; Attention: Mr. Kristopher Lah. Direct inquiries to Mr. Lah at 847–381–2253, extension 15 (phone) or *kristopher_lah@fws.gov* (e-mail).

Michigan monkey-flower: U.S. Fish and Wildlife Service, Ecological Services Field Office, 2651 Coolidge Road, Suite 101, East Lansing, MI 48823–5902; Attention: Ms. Tameka Dandridge. Direct inquiries to Ms. Dandridge at 517–351–8315 (phone) or *tameka_dandridge@fws.gov* (e-mail).

How Are These Populations Currently Listed?

Table 1 provides current listing information. Also, the List, which covers all listed species, is available on our Internet site at *http://endangered.fws.gov/wildlife.html#Species*.

Definitions

To help you submit information about the species we are reviewing, we provide the following definitions:

Species includes any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any species of vertebrate, which interbreeds when mature;

Endangered species means any species that is in danger of extinction throughout all or a significant portion of its range; and

Threatened species means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

How Do We Determine Whether a Species Is Endangered or Threatened?

Section 4(a)(1) of the Act establishes that we determine whether a species is endangered or threatened based on one or more of the five following factors: (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. Section 4(a)(1) of the Act requires that our determination be made on the basis of the best scientific and commercial data available.

What Could Happen as a Result of Our Review?

For the species under review, if we find new information that indicates a change in classification may be warranted, we may propose a new rule that could do one of the following: (a) Reclassify the species from threatened to endangered (uplist); (b) reclassify the species from endangered to threatened (downlist); or (c) remove the species from the List (delist).

If we determine that a change in classification is not warranted, then the species will remain on the List under its current status.

Authority

We publish this document under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Dated: February 20, 2009.

Lynn M. Lewis,

Assistant Regional Director, Ecological Services, Midwest Region.

[FR Doc. E9–5805 Filed 3–17–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–12079, AA–12083, AA–12087, AA–12088, AA–12089, AA–12090, AA–12091, AA–12092, AA–12093, AA–12096, AA–12097, AA–12098, AA–12099, AA–12104, AA–12105, AA–12107, AA–12118, AA–12126, AA–12127, AA–12128, AA–12129, AA–12131, AA–12132, AA–12102, AA–12140, AA–12141, AA–12142, AA–12143, AA–12145, AA–12161, AA–12162, AA–12163, AA–12164, AA–12166, AA–12199; AK–962–1410–HY–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to The Aleut Corporation for lands located in the vicinity of Adak, Alaska. Notice of the decision will also be published four times in the Anchorage Daily News.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until April 17, 2009 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Dina L. Torres,

Land Transfer Resolution Specialist, Resolution Branch.

[FR Doc. E9–5801 Filed 3–17–09; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Announcement of Meetings for Information-Gathering on Developing an Energy Plan for Conventional and Renewable Resources of the Outer Continental Shelf (OCS)

AGENCY: Office of Secretary, Interior.

ACTION: Notice of public meetings.

SUMMARY: On February 10, 2009, the Secretary of the Interior (Secretary) announced his strategy for developing a comprehensive energy plan for the OCS. One facet of the four-step strategy was to hold meetings along the U.S. coasts and in Alaska to gather information on how to move forward with a comprehensive plan for conventional and renewable energy resources of the OCS.

The Secretary announced a series of four meetings to seek ideas and information from states, stakeholders, and affected communities as well as the regulated industries. See below for information on meeting dates, times, locations, and the agenda.

FOR FURTHER INFORMATION CONTACT: For information please contact Ms. Renee Orr, 5-Year Program Manager, Minerals Management Service (MS–4010), 381 Elden Street, Herndon, Virginia 20170, (703) 787–1215.

SUPPLEMENTARY INFORMATION: On February 10, 2009, the Secretary announced his strategy for developing a comprehensive energy plan for the OCS. The Secretary detailed a four-step strategy to develop a plan to lease conventional—oil and gas—and renewable—wind, wave, and current—resources of the OCS, both under the statutory authority of the OCS Lands Act (43 U.S.C. 1331 *et seq.*). First, the Secretary extended the comment period of the Draft Proposed OCS Oil and Gas Leasing Program for 2010–2015 (DPP) by 180 days to September 21, 2009. A Request for Comments on the DPP and notice of intent to prepare an Environmental Impact Statement was published in the **Federal Register** on January 21, 2009 (74 FR 3631). The DPP can be downloaded from the MMS Web site at *http://www.mms.gov.* Second, the Secretary directed the MMS and USGS, within 45 days, to prepare a report on the information available on OCS energy resources, information regarding sensitive areas and resources in the OCS, and where there are gaps in the information. Third, within 30 days of receipt of the report, the Secretary will convene regional meetings that are the subject of this notice. Fourth, the Secretary will issue final regulations for offshore renewable energy in the near future, as mandated by the Energy Policy Act of 2005 (Pub. L. 109–58).

Public Meetings

The Secretary will convene four public meetings to receive input from stakeholders. The meetings will occur on the following dates at the listed cities. Logistical information will be posted on the MMS home page (*http://www.mms.gov*) at least 2 weeks before the meetings.

Monday, April 6, 2009—Atlantic City Convention Center; One Convention Boulevard; Atlantic City, New Jersey 08401,

Wednesday, April 8, 2009—Tulane University; 6823 St. Charles Avenue; New Orleans, Louisiana 70118,

Tuesday, April 14, 2009—Dena'ina Civic and Convention Center; 600 W. Seventh Avenue; Anchorage, Alaska 99501.

Thursday, April 16, 2009—University of California, San Francisco, Mission Bay Conference Center; Robertson Auditorium; 1675 Owens Street; San Francisco, California 94158.

General Meeting Purposes

The meetings will be convened in the morning by Secretary of the Interior Kenneth L. Salazar. A panel will present the Report prepared by MMS and USGS on the information available on OCS energy resources, information regarding sensitive areas and resources in the OCS, and where there are gaps in the information. The meetings will provide an opportunity to gather the best ideas for how to accomplish the task of gathering the offshore information still needed, and seek recommendations from all interested parties on how to move forward with a comprehensive energy plan for the OCS. Following the morning session, the Secretary will turn over the meeting to MMS for afternoon and evening sessions for receipt of public comments.

Dated: March 10, 2009.

Walter D. Cruickshank,

Acting Director, Minerals Management Service.

[FR Doc. E9–5798 Filed 3–17–09; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–645]

In the Matter of Certain Vein Harvesting Surgical Systems and Components Thereof; Notice of Commission Determination Not To Review an Initial Determination Terminating the Investigation in Its Entirety on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 21) issued by the presiding administrative law judge (''ALJ'') in the above-captioned investigation terminating the investigation in its entirety on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: This investigation was instituted on May 5, 2008, based upon a complaint filed on behalf of Maquet Cardiovascular LLC of San Jose, California (''Maquet'') on April 1, 2008, and supplemented on April 22, 2008. 73 FR 24611 (May 5, 2008). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain vein harvesting systems or components thereof by reason of infringement of one or more claims of U.S. Patent Nos. RE36,043 and

6,830,546. The notice of investigation named as respondents Terumo Corp. (Tokyo, Japan) and Terumo Cardiovascular Systems Corp. (Ann Arbor, Michigan) (collectively, ''Terumo'').

On December 23, 2008, Maquet and Terumo filed a joint motion pursuant to Commission Rule 210.21 to terminate the investigation on the basis of a settlement agreement. On December 31, 2008, the Commission investigative attorney filed a response in support of the motion. On January 16, 2009, the ALJ issued Order No. 21, granting the motion and terminating the investigation in its entirety. Though not designated as such by the ALJ, Order No. 21 is an initial determination under Commission rule 210.42(c). No petitions for review were filed. The Commission has determined not to review the subject ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 210.21 and 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.21 and 210.42).

Issued: February 9, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–5765 Filed 3–17–09; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Combating Exploitive Child Labor Through Education

AGENCY: Bureau of International Labor Affairs, Department of Labor.

ACTION: General solicitation of public comments on past solicitations for Cooperative Agreement Applications for projects to combat exploitive child labor through education published by the Office of Child Labor, Forced Labor, and Human Trafficking.

SUMMARY: In preparation for a possible FY 2009 Notice of Availability of Funds and Solicitation(s) for Cooperative Agreement Applications (SGAs), the Office of Child Labor, Forced Labor, and Human Trafficking (OCFT) within the U.S. Department of Labor (USDOL), Bureau of International Labor Affairs (ILAB), is requesting public comments on past SGAs published for projects to combat exploitive child labor internationally through education, as well as suggestions for improving such SGAs in the future.

DATES: Comments will be accepted until March 31, 2009.

TO SUBMIT COMMENTS, OR FOR FURTHER INFORMATION, CONTACT: Ms. Michal Murphy, International Relations Officer, Office of Child Labor and Human Trafficking, Bureau of International Labor Affairs. Telephone: (202) 693–4843 (this is not a toll-free number). Comments may be submitted by the following methods:

- *E-mail: murphy.michal@dol.gov*; and
- *Facsimile (FAX):* USDOL ILAB/Office of Child Labor, Forced Labor, and Human Trafficking at (202) 693–4830.

SUPPLEMENTARY INFORMATION:

1. Background

Since 1995, the U.S. Congress has appropriated over USD 660 million to USDOL's OCFT for efforts to combat exploitive child labor internationally. This funding has been used to support technical cooperation projects to combat exploitive child labor, including the worst forms of child labor, in more than 75 countries worldwide. Technical cooperation projects funded by USDOL's OCFT range from direct action programs targeting specific sectors of work to more comprehensive programs that support national efforts to eliminate the worst forms of child labor as defined by ILO Convention 182. USDOL-funded projects generally seek to achieve five major goals:

1. Withdrawing and preventing children from involvement in exploitive child labor through the provision of direct educational services;
2. Strengthening policies on child labor and education, the capacity of national institutions to combat child labor, and formal and transitional education systems that encourage children engaged in, or at risk of engaging in, exploitive child labor to attend school;
3. Raising awareness of the importance of education for all children and mobilizing a wide array of actors to improve and expand education infrastructures;
4. Supporting research and the collection of reliable data on child labor; and
5. Ensuring the long-term sustainability of these efforts.

Since 2001, USDOL-funded projects have withdrawn or prevented over 1 million children from exploitive labor.

In preparation for possible future solicitations for cooperative agreement applications, OCFT is requesting comments regarding these past SGAs and suggestions for possible improvements. All comments received will be taken into consideration by ILAB's OCFT in the development of future SGAs for child labor and education projects.

2. Comment Submission Information

All individuals or organizations interested in submitting comments should send them using the information specified above, no later than March 31, 2009. All comments should make reference to this notice requesting public comment on past OCFT SGAs to combat exploitive child labor through education.

In your comments, please indicate which OCFT SGA you are basing your comments on [*e.g.*, SGA 08–01 (FY 2008), SGA 07–10 (FY 2007), SGA 06–06 (FY 2006)]. Recently published OCFT SGAs for projects to combat exploitive child labor through education can be found online at USDOL's Web site: *http://www.dol.gov/ilab/programs/ocft/news.htm.*

General Questions for All Organizations

(1) Where did you first learn about OCFT's SGA?

- The **Federal Register**.
- *Grants.gov.*
- OCFT's ''EI Listserve.''
- USDOL–OCFT's Web site.
- Other—Please specify.

(2) Please comment on the format of the SGA, including:

- Length of the SGA.
- Is the level of detail in the SGA adequate?
- Which sections of the SGA do you find most helpful?
- Which information provided in the SGA do you find least useful?
- Are the SGA's requirements easy to locate? Clearly presented? Are they reasonable? Are the costs associated with these requirements reasonable?
- In terms of the SGA's country scopes of work (*e.g.*, Section I.B.3 in SGA 08–01), are OCFT's requirements clear? Which information provided in the country sections is the most helpful? Which information is the least helpful?
- Are any of OCFT's requirements for the technical and/or cost proposals (outlined in Appendices A and B of SGA 08–01) burdensome or unnecessary? If so, which ones?
- Are any of the criteria for evaluating applications (*e.g.*, Section V.A. of SGA 08–01) unclear? If so, in what way?
- Are the instructions for preparing and submitting applications clear and easy to follow? If not, how could they be improved?

(3) In the future, how could OCFT improve its SGAs for projects to combat exploitive child labor through education and make them more user-friendly?

(4) If you have applied for an OCFT grant in the past, what factors led you to apply for the SGA?

- Ability to understand application requirements.
- Ability to provide responsive information.
- Knowledge of subject.
- Knowledge of countries.
- Other—Please specify.

(5) Please comment on the level to which you feel that OCFT's SGAs and requirements allow you or your organizations to develop innovative and effective approaches to combating exploitive child labor internationally. What could OCFT do to encourage innovation more?

(6) Please comment on the adequacy of the length of time provided to submit an application for OCFT SGAs. How long would you suggest that OCFT leave its SGAs open from the date of publication to the deadline for applications?

(7) If you have applied for an OCFT grant in the past, please comment on the level of effort and time involved in preparing your application(s). How does the level of effort for OCFT's SGAs compare with the level of effort and time spent preparing applications for other Federal agencies?

(8) If applicable, please comment on your experience with submitting your application on *Grants.gov.* What could USDOL do to improve the submission process?

(9) If, in the past you have considered applying for an OCFT grant, but ultimately decided *not* to apply, which factor(s) influenced your decision *not* to apply? Please select all that apply.

- Countries selected.
- Cost of preparing proposal.
- Research required for proposal (*i.e.*, needs assessment).
- Number of requirements.
- Specific requirement(s)—please specify.
- Difficulties with submitting application online using *Grants.gov.*
- Limited knowledge of child labor issues.
- Limited knowledge of target countries.
- Past experience implementing USG project.
- Past experience implementing USDOL project.
- Other—Please specify.

(10) In the future, what specific actions could OCFT take to encourage you or your organization to apply for OCFT SGAs for international projects to combat exploitive child labor through education?

Signed at Washington, DC, this 13th day of March 2009.

Marcia Eugenio,

Acting Deputy Under Secretary, Bureau of International Labor Affairs.

[FR Doc. E9–5821 Filed 3–17–09; 8:45 am]

BILLING CODE 4510–28–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 09–09]

Request for Information From the Private Sector for Philippines Compact Program Development

AGENCY: Millennium Challenge Corporation.

ACTION: Invitation for private sector input.

SUMMARY: The Millennium Challenge Corporation (''MCC'') is a U.S. Government agency created in 2004 to administer the Millennium Challenge Account. Its mission is to reduce poverty through the promotion of sustainable economic growth. Since 2004, MCC has signed Compact programs with eighteen partner countries ranging from $66 million to $698 million. In December 2008, the Government of the Republic of the Philippines through ''MCA-Philippines'' presented a proposal including six projects to MCC for potential Compact funding. This Request for Information (''RFI'') aims to solicit feedback from the private sector on the five proposed projects that are entering the due diligence phase.

Authority: 22 U.S.C. 7701 *et seq.*

SUPPLEMENTARY INFORMATION: This solicitation has the following objectives: (a) Share best practices and private sector experiences on similar projects from other countries; (b) Generate opportunities for leverage of Compact funds with private sector financing, trade, and investment; and (c) Solicit information about opportunities and challenges facing businesses in the sectors which have been identified for possible Compact projects.

This solicitation is focused on the five following project proposals, which are posted publicly in full detail at *http://www.mcap.ph/*:

- Secondary National Roads Development (US$191 million).
- Empowerment and Development Project for Poor Communities or ''KALAHI–CIDSS'' 2 (US$140 million).
- Conditional Cash Transfer (CCT) Philippines or ''4Ps'' (US$227 million).
- Sustainable Upland Watershed Management and Productivity Enhancement through Small Water Impounding Projects or ''SWIP'' (US$43 million).
- Integrated Revenue Information System (IRIS) for Sustained Fiscal Governance (US$148 million).

Where possible, respondents are encouraged to provide information based on experience in the country. Experiences from other countries may also be applicable. MCA-Philippines may use information provided by the private sector to structure projects for Compact funding.

FOR FURTHER INFORMATION: Visit *http://www.mcap.ph/RFI_Philippines_Final_in_PDF.pdf* and *http://www.mcc.gov/countries/philippines/index.php*. Responses to and questions about this Request for Information should be e-mailed to *mcap09@mcap.ph* and to *psi@mcc.gov*.

DATES: Companies, other organizations, and individuals are invited to submit responses on or before Tuesday, March 31, 2009.

Dated: March 13, 2009.

Jeri Jensen,

Managing Director for Private Sector Initiatives, Millennium Challenge Corporation.

[FR Doc. E9–5865 Filed 3–17–09; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (09–030)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council. The agenda for the meeting includes updates from each of the Council committees, including discussion and deliberation of potential recommendations. The Council Committees address NASA's work in the following areas: Aeronautics, Audit and Finance, Space Exploration, Human Capital, Science, and Space Operations.

DATES: Thursday, April 16, 2009, 8 a.m.–3:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, 300 E Street, SW., MIC 5 (5H45), Overflow Room, MIC7A (7H45), Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Marguerite Broadwell, Designated

Federal Official, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–1894.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide a copy of their passport, visa, or green card in addition to providing the following information no less than 7 working days prior to the meeting: full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, phone); and title/position of attendee. To expedite admittance, attendees with U.S. citizenship can provide identifying information 3 working days in advance by contacting Ms. Marla K. King via e-mail at *marla.k.king@nasa.gov* or by telephone at (202) 358–1148. Persons with disabilities who require assistance should indicate this.

Dated: March 11, 2009.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. E9–5847 Filed 3–17–09; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–039; NRC–2009–0112]

PPL Bell Bend, LLC; Combined License Application for the Bell Bend Nuclear Power Plant; Notice of Hearing, Opportunity To Petition for Leave To Intervene, and Associated Order

Pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2, ''Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders,'' 10 CFR Part 50, ''Domestic Licensing of Production and Utilization Facilities,'' and 10 CFR Part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants,'' notice is hereby given that a hearing will be held, at a time and place to be set in the future by the U.S. Nuclear Regulatory Commission (NRC, the Commission) or designated by the Atomic Safety and Licensing Board (Board). The hearing will consider the application dated October 10, 2008, filed by PPL Bell Bend, LLC, pursuant to Subpart C of 10 CFR Part 52, for a combined license (COL). The application, which was supplemented by the applicant by letters dated November 18, 2008, November 24, 2008, December 1, 2008, and December 8, 2008, requests approval of a COL for the Bell Bend Nuclear Power Plant to be located in Luzerne County, Pennsylvania. The application was accepted for docketing on December 19, 2008 (73 FR 79519). The docket number established for this application is 52–039. The Bell Bend Nuclear Power Plant COL application incorporates by reference the application for a standard Design Certification for the U. S. Evolutionary Power Reactor (EPR) submitted to NRC by AREVA NP on December 11, 2007. This design certification application was supplemented by letters dated February 7, 2008, and February 20, 2008. The U.S. EPR design certification application was accepted for docketing on February 25, 2008, and is the subject of an ongoing rulemaking under docket number 52–020.

The hearing will be conducted by a Board that will be designated by the Chief Judge of the Atomic Safety and Licensing Board Panel or will be conducted by the Commission. Notice as to the membership of the Board will be published in the **Federal Register** at a later date. The NRC staff will complete a detailed technical review of the application and will document its findings in a safety evaluation report. The Commission will refer a copy of the application to the Advisory Committee on Reactor Safeguards (ACRS) in accordance with 10 CFR 52.87, ''Referral to the ACRS,'' and the ACRS will report on those portions of the application that concern safety.

Any person whose interest may be affected by this proceeding and who desires to participate as a party to this proceeding must file a written petition for leave to intervene in accordance with 10 CFR 2.309. 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.

A petition for a leave to intervene must be filed no later than 60 days from the date of publication of this notice in the **Federal Register**. Non-timely filings will not be entertained absent a determination by the Commission or presiding officer designated to rule on the petition, pursuant to the requirements of 10 CFR 2.309(c)(i) through (c)(viii).

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. A petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which was promulgated by the NRC on August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve 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 a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the petitioner must contact the Office of the Secretary by e-mail at *HearingDocket@nrc.gov*, or by calling (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/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each participant will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html*. 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*.

Once a participant has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a 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 filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE 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 EIE 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 petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC Meta-System Help Desk, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday. The Meta-System Help Desk can be contacted by telephone at 1–866–672–7640 or by e-mail at *MSHD.Resource@nrc.gov*.

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.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i) through (c)(1)(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in the 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, an Atomic Safety and Licensing Board, or a Presiding Officer. Except as required by the regulations, 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.

Any person who files a motion pursuant to 10 CFR 2.323 must consult with counsel for the applicant and counsel for the NRC staff who are listed below. Counsel for the applicant is David A. Repka, Esq., *drepka@winston.com*, (202) 282–5726. Counsel for the NRC staff in this proceeding is Robert Weisman, *robert.weisman@nrc.gov*, (301) 415–1696.

A person who is not a party may be permitted to make a limited appearance by making an oral or written statement of his or her position on the issues at any session of the hearing or any pre-hearing conference within the limits and conditions fixed by the presiding officer, but may not otherwise participate in the proceeding. These limited appearance statements need not be submitted using the E-filing process.

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 and will be accessible electronically through the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room link 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 documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov*. The application is available at *http://www.nrc.gov/reactors/new-reactors/col/bell-bend.html*. The ADAMS accession number for the application cover letter is ML082140630. To search for documents in ADAMS using the Bell Bend Nuclear Power Plant COL application docket number 52–039, enter the term ''05200039'' in the ''Docket Number'' field when using either the web-based search (advanced search) engine or the ADAMS find tool in CITRIX. The AREVA Design Control Document (DCD), Rev. 0, which is incorporated by reference, can be found by going to *http://www.nrc.gov/reactors/new-reactors/design-cert/epr.html*. To review available documents related to AREVA's U.S. EPR design certification by using the docket number, enter the term ''05200020'' in the ADAMS ''Docket Number'' field.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation

1. This order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information (including Sensitive Unclassified Non-Safeguards Information (SUNSI) and Safeguards Information (SGI)).

2. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party as defined in 10 CFR 2.4 who believes access to SUNSI or SGI is necessary for a response to the notice may request access to SUNSI or SGI. A ''potential party'' is any person who intends or may intend to participate as a party by demonstrating standing and the filing of an admissible contention under 10 CFR 2.309. Requests submitted later than 10 days will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

3. The requester shall submit a letter requesting permission to access SUNSI and/or SGI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are *HearingDocket@nrc.gov* and

OGCmailcenter@nrc.gov, respectively.[1] The request must include the following information:

a. A description of the licensing action with a citation to this **Federal Register** notice of hearing and opportunity to petition for leave to intervene;

b. The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in (a);

c. If the request is for SUNSI, the identity of the individual requesting access to SUNSI and the requester's need for the information in order to meaningfully participate in this adjudicatory proceeding, particularly why publicly available versions of the application would not be sufficient to provide the basis and specificity for a proffered contention;

d. If the request is for SGI, the identity of the individual requesting access to SGI and the identity of any expert, consultant or assistant who will aid the requester in evaluating the SGI, and information that shows:

(i) Why the information is indispensable to meaningful participation in this licensing proceeding; and

(ii) The technical competence (demonstrable knowledge, skill, experience, training or education) of the requester to understand and use (or evaluate) the requested information to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant or assistant who demonstrates technical competence as well as trustworthiness and reliability, and who agrees to sign a non-disclosure affidavit and be bound by the terms of a protective order; and

e. If the request is for SGI, Form SF–85, ''Questionnaire for Non-Sensitive Positions,'' Form FD–258 (fingerprint card), and a credit check release form completed by the individual who seeks access to SGI and each individual who will aid the requester in evaluating the SGI. For security reasons, Form SF–85 can only be submitted electronically, through a restricted-access database. To obtain online access to the form, the requester should contact the NRC's Office of Administration at 301–492–3524.[2] The other completed forms must be signed in original ink, accompanied by a check or money order payable in the amount of $200.00 to the U.S. Nuclear Regulatory Commission for each individual, and mailed to the U.S. Nuclear Regulatory Commission, Office of Administration, Security Processing Unit, Mail Stop TWB–05 B32M, Washington, DC 20555–0012.

These forms will be used to initiate the background check, which includes fingerprinting as part of a criminal history records check.

Note: Copies of these forms do *not* need to be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as described above.

4. To avoid delays in processing requests for access to SGI, all forms should be reviewed for completeness and accuracy (including legibility) before submitting them to the NRC. Incomplete packages will be returned to the sender and will not be processed.

5. Based on an evaluation of the information submitted under items 2 and 3.a through 3.d above, the NRC staff will determine within 10 days of receipt of the written access request whether (1) there is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding, and (2) there is a legitimate need for access to SUNSI or need to know the SGI requested. For SGI, the need to know determination is made based on whether the information requested is necessary (*i.e.*, indispensable) for the proposed recipient to proffer and litigate a specific contention in this NRC proceeding[3] and whether the proposed recipient has the technical competence (demonstrable knowledge, skill, training, education, or experience) to evaluate and use the specific SGI requested in this proceeding.

6. If standing and need to know SGI are shown, the NRC staff will further determine based upon completion of the background check whether the proposed recipient is trustworthy and reliable. The NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection systems are sufficient to protect SGI from inadvertent release or disclosure. Recipients may opt to view SGI at the NRC's facility rather than establish their own SGI protection program to meet SGI protection requirements.

7. A request for access to SUNSI or SGI will be granted if:

a. The request has demonstrated that there is a reasonable basis to believe that a potential party is likely to establish standing to intervene or to otherwise participate as a party in this proceeding;

b. The proposed recipient of the information has demonstrated a need for SUNSI or a need to know for SGI, and that the proposed recipient of SGI is trustworthy and reliable;

c. The proposed recipient of the information has executed a Non-Disclosure Agreement or Affidavit and agrees to be bound by the terms of a Protective Order setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI and/or SGI; and

d. The presiding officer has issued a protective order concerning the information or documents requested.[4] Any protective order issued shall provide that the petitioner must file SUNSI or SGI contentions 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

8. If the request for access to SUNSI or SGI is granted, the terms and conditions for access to sensitive unclassified information will be set forth in a draft protective order and affidavit of non-disclosure appended to a joint motion by the NRC staff, any other affected parties to this proceeding,[5] and the petitioner(s). If the diligent efforts by the relevant parties or petitioner(s) fail to result in an agreement on the terms and conditions for a draft protective order or non-disclosure affidavit, the relevant parties to the proceeding or the petitioner(s) should notify the presiding officer

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

[2] The requester will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and e-mail address. After providing this information, the requester usually should be able to obtain access to the online form within one business day.

[3] Broad SGI requests under these procedures are thus highly unlikely to meet the standard for need to know; furthermore, staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requester's need to know than ordinarily would be applied in connection with an already-admitted contention.

[4] If a presiding officer has not yet been designated, the Chief Administrative Judge will issue such orders, or will appoint a presiding officer to do so.

[5] Parties/persons other than the requester and the NRC staff will be notified by the NRC staff of a favorable access determination (and may participate in the development of such a motion and protective order) if it concerns SUNSI and if the party/person's interest independent of the proceeding would be harmed by the release of the information (*e.g.*, as with proprietary information).

within 5 days, describing the obstacles to the agreement.

9. If the request for access to SUNSI is denied by the NRC staff or a request for access to SGI is denied by NRC staff either after a determination on standing and need to know or, later, after a determination on trustworthiness and reliability, the NRC staff shall briefly state the reasons for the denial. Before the Office of Administration makes an adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information. The requester may challenge the NRC staff's adverse determination with respect to access to SUNSI or with respect to standing or need to know for SGI by filing a challenge within 5 days of receipt of that determination with (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer. In the same manner, an SGI requester may challenge an adverse determination on trustworthiness and reliability by filing a challenge within 15 days of receipt of that determination.

In the same manner, a party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of such a request.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[6]

10. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI and/or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

Dated at Rockville, Maryland, this 12th day of March 2009.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—General Target Schedule for Processing And Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information in this Proceeding

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and/or Safeguards Information (SGI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (*e.g.*, showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.
25	If NRC staff finds no ''need,'' ''need to know,'' or likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). **Note:** Before the Office of Administration makes an adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff determination either before the presiding officer or another designated officer.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.

[6] As of October 15, 2007, the NRC's final ''E-Filing Rule'' became effective. See Use of Electronic Submissions in Agency Hearings (72 FR 49139; August 28, 2007). Requesters should note that the filing requirements of that rule apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI/SGI requests submitted to the NRC staff under these procedures.

Day	Event/activity
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
B	Decision on contention admission.

[FR Doc. E9–5810 Filed 3–17–09; 8:45 am]
BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 03033722, License No. 31–30187, EA–08–158; NRC–2009–0118]

In the Matter of Quality Inspection Services, Inc.: Confirmatory Order Modifying License (Effective Immediately)

I

Quality Inspection Services, Inc. (QISI) (Licensee) is the holder of a byproduct materials license issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 34. The license was last renewed on November 28, 2005 (Amendment 8), and was last amended on March 11, 2008 (Amendment 12). The license authorizes the operation of the QISI facility in accordance with conditions specified therein. The facility is located on the Licensee's site in Manchester, Connecticut.

II

The NRC Office of Investigations (OI) initiated an investigation on March 16, 2007, in part, to determine whether QISI willfully performed unauthorized radiography operations. Based on the evidence developed during the OI investigation, which was completed on November 30, 2007, the NRC identified an apparent willful violation involving QISI failing to maintain utilization logs for sealed sources, as required by 10 CFR 34.71. A description of this apparent violation and a factual summary of the results of the investigation were sent to QISI in an NRC letter dated August 15, 2008.

At the NRC's request, QISI attended a predecisional enforcement conference (PEC) on August 27, 2008, to discuss the apparent violation and the results of the OI investigation. After considering the information presented in the PEC and the evidence developed during the investigation, the NRC determined that the violation occurred and was willful. Specifically, between November 15, 2006, and March 2, 2007, QISI's former site radiation safety officer (RSO) willfully failed to log the following information for each sealed source: (1) A description of the radiographic exposure device or transport or storage container in which the sealed source is located; (2) the identity and signature of the assigned radiographer; and, (3) the plant or site where the source was used, and when, including the dates on which the source was removed and returned to storage. In a letter dated September 15, 2008, the NRC issued QISI a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the amount of $6,500 for this violation.

Because the violation was willful, the September 15, 2008 NRC letter included an offer to QISI to use the Alternative Dispute Resolution (ADR) program, in an attempt to resolve any issues it had with the enforcement action. The ADR program is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement on resolving any differences regarding the dispute. In response, on October 22, 2008, QISI requested the use of the ADR program.

III

On January 22, 2009, the NRC and QISI met in an ADR session mediated by a professional mediator, arranged through Cornell University's Scheinman Institute on Conflict Resolution. During that ADR session, a preliminary settlement agreement was reached. This *Confirmatory Order is the result of that agreement, the elements of which consisted of the following:*

1. The NRC and QISI agree that the violation of 10 CFR 34.71, referenced in the NRC letter, dated September 15, 2008, occurred, as stated in the referenced Notice.

2. As documented in the September 15, 2008 NRC letter, QISI has taken several corrective actions in response to the willful violation, as well as other violations identified in the Notice of Violation and Proposed Imposition of Civil Penalty. Those actions, which the NRC agrees were prompt and comprehensive include: ensuring that employees involved in radiography activities have reviewed QISI's Operations and Emergency (O&E) Manual, and reinforcing expectations regarding the existing Employee Concerns Program, specifically emphasizing the opportunity for employees to raise safety concerns.

3. As a result of the ADR session, QISI agrees to take the following additional actions:

a. Revise the existing O&E Manual to emphasize the importance of safe performance of radiography, strict compliance with requirements, all staff being complete and accurate in all communications, and all staff understanding that engaging in any willful misconduct will not be tolerated.

b. Retrain all employees regarding the revisions to the O&E manual.

c. Add a radiation safety component to the existing Corporate Newsletter, to be issued at least quarterly, focusing on radiation safety updates. In the first newsletter issued following the NRC Confirmatory Order confirming these commitments, the front page of that newsletter will include a message from the QISI President which emphasizes the importance of safe performance of radiography, strict compliance with requirements, all staff being complete and accurate in all communications, and all staff understanding that engaging in any willful misconduct will not be tolerated.

d. Develop a video recording (DVD) that will be required viewing by all company employees who are involved in any manner in activities subject to NRC jurisdiction, and will also be placed on the QISI Web site for employee viewing and access. The video will include opening remarks by either the QISI President or the QISI Executive Vice President providing the expectations set forth in the Corporate Newsletter described in Item 3.c.

e. Place the DVD referenced in Item 3.d on the QISI public Web site, and offer to make the DVD available for a presentation at a national industry conference (e.g. American Society for Nondestructive Testing).

f. Increase the audits of each radiographer working in areas of NRC jurisdiction to three times annually for two years following issuance of this Confirmatory Order, and have these audits conducted by the Corporate Radiation Safety Officer (RSO).

g. Include, as part of the next two NRC required annual reviews of the radiation safety program, an inquiry (independent of the Corporate RSO) of all radiographers working in NRC jurisdiction. The inquiry will assess the effectiveness of adherence to NRC requirements, and implementation of the actions set forth above. The inquiry will encourage all radiographers to raise any concerns they have, and to do so anonymously if they so chose. The results will be summarized and provided to the QISI President.

h. Complete the actions set forth in Items 3.a through 3.e within six months of the Confirmatory Order issued to confirm this agreement. Complete the actions in Items 3.f through 3.g within two years of the Confirmatory Order.

i. Upon completion of the actions set forth in Items 3.a through 3.e, send the NRC a letter summarizing the completed actions within 30 days confirming that each of those actions has been completed. Upon completion of the actions set forth in Items 3.f through 3.g, send the NRC another letter summarizing the completed actions within 30 days, confirming that those actions have been completed.

4. In light of the corrective actions that QISI took to correct the violations, as noted in Item 2, as well as the additional actions QISI committed to take, as described in Item 3, the NRC agrees to reduce the amount of the civil penalty to $500. QISI agrees to pay this amount.

On March 4, 2009, the Licensee consented to issuing this Order with the commitments, as described in Section V below. The Licensee further agreed that this Order is to be effective upon issuance, and that the Licensee has waived its right to a hearing.

IV

Since the Licensee has agreed to take additional actions to address NRC concerns, as set forth in Item III above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that the Licensee's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments, the public health and safety are reasonably assured. In view of the foregoing, I have also determined that public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and the Licensee's consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 34, *it is hereby ordered, effective immediately, that QISI shall:*

A. Revise the existing O&E Manual to emphasize the importance of safe performance of radiography, strict compliance with requirements, all staff being complete and accurate in all communications, and all staff understanding that engaging in any willful misconduct will not be tolerated;

B. Retrain all employees regarding the revisions to the O&E manual;

C. Add a radiation safety component to the existing Corporate Newsletter, to be issued at least quarterly, that will focus on radiation safety updates, and have the front page of the first newsletter issued following this NRC Confirmatory Order confirming these commitments include a message from the QISI President which emphasizes the importance of safe performance of radiography, strict compliance with requirements, all staff being complete and accurate in all communications, and all staff understanding that engaging in any willful misconduct will not be tolerated;

D. Develop a video recording (DVD) that will be required viewing by all company employees who are involved in any manner in activities subject to NRC jurisdiction, and will also be placed on the QISI Web site for employee viewing and access; the video will include opening remarks by either the QISI President or the QISI Executive Vice President providing the expectations set forth in the Corporate Newsletter described in Item C;

E. Place the DVD referenced in Item D on the QISI public Web site, and offer to make the DVD available for a presentation at a national industry conference (e.g., American Society for Nondestructive Testing);

F. Increase the audits of each of the radiographers working in areas of NRC jurisdiction to three times annually for two years following issuance of this Confirmatory Order, and have these audits conducted by the Corporate RSO;

G. Include, as part of the next two NRC required annual reviews of the radiation safety program, an inquiry (independent of the Corporate RSO) of all radiographers working in NRC jurisdiction; ensure the inquiry assesses the effectiveness of adherence to NRC requirements, and implementation of the actions set forth above in Items V.A–V.F; and use the inquiry to encourage all radiographers to raise any concerns they have, and to do so anonymously if they so chose;

H. Complete the actions set forth in Items V.A–V.E within six months of the date of this Confirmatory Order, and complete the actions in Items V.F–V.G within two years of the date of this Confirmatory Order;

I. Upon completion of the actions set forth in Items V.A–V.E, send the NRC a letter, within 30 days, confirming that those actions have been completed;

J. Upon completion of the actions set forth in Items V.F–V.G, send the NRC another letter, within 30 days, confirming that those actions have been completed; and,

K. Pay a civil penalty in the amount of $500, within 30 days of the date of this Confirmatory Order.

The Regional Administrator, Region I, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and include a statement of good cause for the extension.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 2007, 72 FR 49,139 (Aug. 28, 2007). The E-Filing process requires participants to submit and serve documents over the Internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV*, or by calling (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 NRC proceeding in which it is participating; and/or (2) creation of

an electronic docket for the proceeding [even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate]. Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html*. Information about applying for a digital ID certificate also is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*.

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. 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 filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE 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 EIE 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 document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The electronic filing Help Desk can be contacted by telephone at 1–866–672–7640 or by e-mail at *MSHD.Resource@nrc.gov*.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, 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, MD 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.

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, an Atomic Safety and Licensing Board, or a 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. 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 works.

If a person other than (the Licensee) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If the hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received. *A request for hearing shall not stay the immediate effectiveness of this order.*

For The Nuclear Regulatory Commission.

Dated this the 10th day of March 2009.

Marc L. Dapas,

Deputy Regional Administrator.

[FR Doc. E9–5812 Filed 3–17–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271; NRC–2009–0121]

Entergy Nuclear Operations, Inc., Vermont Yankee Nuclear Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a revision of an existing exemption from Title 10 of the Code of Federal Regulations (10 CFR) part 50, Appendix R, ''Fire Protection Program of Nuclear Power Facilities Operating Prior to January 1, 1979,'' for Automatic Fire Suppression, Separation, and Repairs, issued to Entergy Nuclear Operations, Inc. (the licensee), for operation of Vermont Yankee Nuclear Power Station (VY), located in Windham County, Vermont. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would revise the exemption from the provisions of 10 CFR part 50, Appendix R, Section III.G.2 (III.G.2), dated December 1, 1986, which in part permitted a reduction in minimum separation distance between cable trays in the northwest corner of Fire Zone RB–3 of the reactor building to 18 feet. VY has requested a revision of the existing exemption to permit the actual minimum separation distance of 17 feet-7.5 inches.

The proposed action is in accordance with the licensee's application dated July 11, 2008, as supplemented by letter dated November 20, 2008.

The Need for the Proposed Action

The proposed revision of an existing exemption from 10 CFR part 50, Appendix R, is needed to permit a reduction in minimum separation distance between cable trays from 18 feet to 17 feet-7.5 inches. VY has performed a Fire Protection evaluation, using NRC Generic Letter 86–10, ''Implementation of Fire Protection Requirements,'' and concluded that

there is no impact on VY's safe shutdown capability by this reduction in separation.

Environmental Impacts of the Proposed Action

The NRC has completed its safety evaluation (SE) of the proposed action and concludes that the further reduction in minimum separation distance is sufficient to maintain an adequate level of safety to meet the requirements of 10 CFR 50.12(a)(2)(ii) in that the application of the regulation is not necessary to achieve the underlying purpose of the rule. The details of the staff's SE will be provided in the exemption that will be issued as part of the letter to the licensee approving the exemption.

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 off site. There is no significant increase in the amount of any effluent released off site. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with 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 NRC 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 VY.

Agencies and Persons Consulted

In accordance with its stated policy, on January 15, 2009, the NRC staff consulted with the Vermont State official of the Vermont Department of Public Service 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 July 11, 2008, Agencywide Documents Access and Management System (ADAMS) accession number ML081000176, as supplemented by letter dated November 20, 2008, ADAMS accession number ML083370180. 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 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@nrc.gov.*

Dated at Rockville, Maryland, this 11th day of March 2009.

For the Nuclear Regulatory Commission.

James Kim,

Project Manager, Plant Licensing Branch I–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E9–5811 Filed 3–17–09; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. USTR–2008–0036]

Delay in Modification of Action Taken in Connection With WTO Dispute Settlement Proceedings on the European Communities' Ban on Imports of U.S. Beef and Beef Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and modification of action.

SUMMARY: On January 15, 2009, the United States Trade Representative ('Trade Representative') announced modifications ('January 15 modifications') to the action taken in July 1999 in connection with the World Trade Organization (''WTO'') authorization to the United States in the *EC-Beef Hormones* dispute to suspend concessions and related obligations with respect to the European Communities (''EC''). See 74 FR 4265 (Jan. 23, 2009). The January 15 modifications had an effective date of March 23, 2009. In order to allow additional time to reach agreement with the EC on an interim solution that would provide benefits to the U.S. beef industry, the Trade Representative has decided to delay for one month (until April 23, 2009) the effective date of the additional duties imposed under the January 15 modifications. The effective date of the removal of duties under the January 15 modifications will remain March 23, 2009.

Effective Date: As set out in Annex I to this notice, the removal of duties on items deleted from the product list under the January 15 modifications shall be effective with respect to products that are entered, or withdrawn from warehouse, for consumption on or after March 23, 2009. As set out in Annex II to this notice, the additional duties under the January 15 modifications shall be effective with respect to products that are entered, or withdrawn from warehouse, for consumption on or after April 23, 2009.

FOR FURTHER INFORMATION CONTACT: Roger Wentzel, Director, Agricultural Affairs, (202) 395–6127 or David Weiner, Director for the European Union, (202) 395–4620 for questions concerning the *EC-Beef Hormones* dispute; or William Busis, Associate General Counsel and Chair of the Section 301 Committee, (202) 395–3150, for questions concerning procedures under Section 301.

SUPPLEMENTARY INFORMATION: For background concerning the *EC-Beef Hormones* WTO dispute and the January 15 modifications, see 74 FR 4265 (Jan. 23, 2009).

In the January 15 modifications, the Trade Representative decided: (1) To remove some products from the list of products currently subject to 100 percent *ad valorem* duties; (2) to impose 100 percent *ad valorem* duties on some new products from certain EC member States; (3) to modify the coverage with respect to particular EC member States; and (4) to raise the level of duties on one of the products that is being maintained on the product list.

Pursuant to Section 305 of the Trade Act of 1974, the Trade Representative

has determined that a one-month delay (until April 23, 2009) in implementation of certain elements of the January 15 modifications would be desirable to obtain a satisfactory solution with respect to the EC's ban on U.S. beef. The elements to be delayed are: (i) The imposition of increased duties on additional products, (ii) the application to products of additional EC member States of the increased duties on currently covered products, and (iii) the increase in the level of duties on one of the products that is being maintained on the product list. The Trade Representative has not delayed the March 23, 2009 effective date of the removal of duties under the January 15 modifications.

As set out in Annex I to this notice, the removal of duties on items deleted from the product list under the January 15 modifications shall be effective with respect to products that are entered, or withdrawn from warehouse, for consumption on or after March 23, 2009. Any merchandise covered under Part D of Annex I that is admitted to a U.S. foreign-trade zone on or after March 23, 2009 must be admitted in ''privileged foreign status''as defined in 19 CFR 146.41. As set out in Annex II to this notice, the full January 15 modifications, including the additional duties under those modifications, shall be effective with respect to products that are entered, or withdrawn from warehouse, for consumption on or after April 23, 2009. Any merchandise covered under Part B of Annex II that is admitted to a U.S. foreign-trade zone on or after April 23, 2009 must be admitted in ''privileged foreign status'' as defined in 19 CFR 146.41. Questions concerning customs matters may be directed to Renee Chovanec, International Coordination, Office of International Trade, U.S. Customs and Border Protection, 202–863–6384.

The Annexes to this notice supercede and replace in full the Annex to the earlier notice published at 74 FR 4265 (Jan. 23, 2009), which initially put in place the January 15 modifications.

William Busis,

Chair, Section 301 Committee.

Annex I

A. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after March 23, 2009, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTS) is modified by deleting the following HTS subheadings: 9903.02.31, 9903.02.33, 9903.02.35, 9903.02.36, 9903.02.37, 9903.02.38, and 9903.02.47.

B. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after March 23, 2009, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTS) is modified by deleting HTS subheading 9903.02.39 and the superior text thereto.

C. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after March 23, 2009, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTS) is modified by deleting HTS subheadings 9903.02.40, 9903.02.41, and 9903.02.42 and the superior text thereto.

D. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after March 23, 2009, the Harmonized Tariff Schedule of the United States (HTS) is modified by adding in numerical sequence the following superior text and subheading to subchapter III of chapter 99 to the HTS. The superior text and subheading are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated ''Heading/Subheading'', ''Article Description'', and ''Rates of Duty 1–General'', respectively:

9903.02.83	''Articles the product of Austria or France: Juice of any other single fruit, not elsewhere specified or included, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter (provided for in subheading 2009.80.60).	100%''

Annex II

A. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after April 23, 2009, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTS) is modified by deleting the following HTS subheadings and the superior text thereto: 9903.02.21, 9903.02.22, 9903.02.23, 9903.02.24, 9903.02.25, 9903.02.26, 9903.02.27, 9903.02.28, 9903.02.29, 9903.02.30, 9903.02.32, 9903.02.34, 9903.02.43, 9903.02.44, 9903.02.45, 9903.02.46, and 9903.02.83.

B. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after April 23, 2009, the Harmonized Tariff Schedule of the United States (HTS) is modified by adding in numerical sequence the following superior text and subheadings to subchapter III of chapter 99 to the HTS. The superior text and subheadings are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated ''Heading/Subheading'', ''Article Description'', and ''Rates of Duty 1—General'', respectively:

	''Articles the product of Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain or Sweden:	
9903.02.48	Meat of bovine animals, fresh or chilled (provided for in heading 0201):	
	Articles of subheading 0201.10.05, 0201.10.10, 0201.20.02, 0201.20.04, 0201.20.06, 0201.20.10, 0201.20.30, 0201.20.50, 0201.30.02, 0201.30.04, 0201.30.06, 0201.30.10, 0201.30.30 or 0201.30.50.	100%
9903.02.49	Articles of subheading 0201.10.50, 0201.20.80 or 0201.30.80	100%
9903.02.50	Meat of bovine animals, frozen (provided for in heading 0202):	
	Articles of subheading 0202.10.05, 0202.10.10, 0202.20.02, 0202.20.04, 0202.20.06, 0202.20.10, 0202.20.30, 0202.20.50, 0202.30.02, 0202.30.04, 0202.30.06, 0202.30.10, 0202.30.30 or 0202.30.50.	100%
9903.02.51	Articles of subheading 0202.10.50, 0202.20.80 or 0202.30.80	100%
9903.02.52	Meat of swine, fresh or chilled (provided for in subheading 0203.11, 0203.12 or 0203.19)	100%
9903.02.53	Carcasses and half-carcasses of swine, frozen (provided for in subheading 0203.21)	100%
9903.02.54	Hams, shoulders, and cuts thereof, with bone in, of swine, frozen (provided for in subheading 0203.22)	100%
9903.02.55	Processed meat of swine, frozen, other than carcasses and half-carcasses of swine and other than hams, shoulders, and cuts thereof, with bone in (provided for in subheading 0203.29.20).	100%
9903.02.56	Edible offal of bovine animals, fresh or chilled (provided for in subheading 0206.10)	100%

9903.02.57	Edible offal of bovine animals, frozen (provided for in subheading 0206.21, 0206.22 or 0206.29)	100%
9903.02.58	Meat and edible offal, of the poultry of heading 0105, fresh, chilled or frozen (provided for in heading 0207)	100%
9903.02.59	Hams, shoulders, and cuts thereof, with bone in, of swine, salted, in brine, dried or smoked (provided for in subheading 0210.11).	100%
9903.02.60	Meat of bovine animals, salted, in brine, dried or smoked (provided for in subheading 0210.20)	100%
9903.02.61	Meat of poultry of heading 0105, salted, in brine, dried or smoked (provided for in subheading 0210.99.20) ..	100%
9903.02.62	Roquefort cheese (provided for in subheading 0406.40.20 and 0406.40.40)	300%
9903.02.63	Foliage, branches and other parts of plants, without flowers or flower buds, and grasses, being goods of a kind suitable for bouquets or for ornamental purposes, fresh, dried or bleached (provided for in subheading 0604.91 or 0604.99.30).	100%
9903.02.64	Truffles, fresh or chilled (provided for in subheading 0709.59.10)	100%
9903.02.65	Rolled or flaked grains of oats (provided for in subheading 1104.12)	100%
9903.02.66	Grains of oats, hulled, pearled, sliced, kibbled or otherwise worked, not elsewhere specified or included (provided for in subheading 1104.22).	100%
9903.02.67	Sausages and similar products of beef, and food preparations based on these products, in airtight containers (provided for in subheading 1601.00.40).	100%
9903.02.68	Other prepared or preserved meat, meat offal or blood, of liver of any animal (provided for in subheading 1602.20).	100%
9903.02.69	Other prepared or preserved meat, meat offal or blood, of poultry of heading 0105 (provided for in subheading 1602.31, 1602.32, 1602.39).	100%
9903.02.70	Other prepared or preserved meat, meat offal or blood, of bovine animals (provided for in subheading 1602.50).	100%
9903.02.71	Chewing gum, whether or not sugar-coated, not containing cocoa (provided for in subheading 1704.10)	100%
9903.02.72	Chocolate and other food preparations containing cocoa, in blocks, slabs or bars, filled, weighing 2 kg or less each (provided for in subheading 1806.31).	100%
9903.02.73	Lingonberry and raspberry jams (provided for in subheading 2007.99.05)	100%
9903.02.74	Pears, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included (provided for in subheading 2008.40).	100%
9903.02.75	Peaches, excluding nectarines, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included (provided for in subheading 2008.70.20).	100%
9903.02.76	Articles the product of Finland, France, Ireland, the Netherlands or Sweden:	
	Meat of swine, frozen, not processed, other than carcasses and half-carcasses of swine and other than hams, shoulders, and cuts thereof, with bone in (provided for in subheading 0203.29.40).	100%
9903.02.77	Articles the product of France:	
	Chestnuts (*Castanea* spp.), fresh or dried, whether or not shelled or peeled (provided for in subheading 0802.40).	100%
9903.02.78	Wool grease (other than crude wool grease) and fatty substances derived from wool grease (including lanolin) (provided for in subheading 1505.00.90).	100%
9903.02.79	Articles the product of Austria, Cyprus, France or Poland:	
	Grape juice (including grape must), not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter (provided for in subheading 2009.61 or 2009.69).	100%
9903.02.80	Juice of any other single fruit, not elsewhere specified or included, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter (provided for in subheading 2009.80.60).	100%
9903.02.81	Mixtures of juices, other than mixtures of vegetable juices, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter (provided for in subheading 2009.90.40).	100%
9903.02.82	Articles the product of Italy:	
	Mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavored (provided for in subheading 2201.10).	100%"

[FR Doc. E9–5933 Filed 3–17–09; 8:45 am]
BILLING CODE 3190–W9–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS383]

WTO Dispute Settlement Proceeding Regarding United States—Antidumping Measures on Polyethylene Retail Carrier Bags From Thailand

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that on March 9, 2009, Thailand requested the establishment of a panel under the *Marrakesh Agreement Establishing the World Trade Organization* (''WTO Agreement'') concerning certain issues relating to the imposition by the United States of antidumping measures on polyethylene retail carrier bags from Thailand. That request may be found at *http://www.wto.org* contained in a document designated as WT/DS383/2. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute, comments should be submitted on or before May 30, 2009 to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted electronically to *http://www.regulations.gov*, docket number USTR–2008–0043. If you are unable to provide submissions by *http://www.regulations.gov*, please contact Sandy McKinzy at (202) 295–9483 to arrange for an alternative method of transmission. If (as explained below) the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395–3640.

FOR FURTHER INFORMATION CONTACT: Elissa Alben, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395–3150.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, USTR is providing notice that the establishment of a dispute settlement panel has been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (''DSU''). If such a panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issue Raised by Thailand

In its request for the establishment of a panel, Thailand challenges the use of what it describes as ''the methodology of 'zeroing' negative anti-dumping margins'' in the Department of Commerce's final determination, as amended, in the original investigation and antidumping duty order with respect to polyethylene retail carrier bags from Thailand.[1] Thailand states that it considers this action to be inconsistent with the obligations of the United States under the first sentence of Article 2.4.2 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to *http://www.regulations.gov* docket number USTR–2008–0043. If you are unable to provide submission by *http://www.regulations.gov*, please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

To submit comments via *http://www.regulations.gov*, enter docket number USTR–2008–0043 on the home page and click ''go''. The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''Notice'' under ''Document Type'' on the left side of the search-results page, and click on the link entitled ''Send a Comment or Submission.'' (For further information on using the *http://www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use This Site'' on the left side of the home page.) The *http://www.regulations.gov* site provides the option of providing comments by filling in a ''General Comments'' field, or by attaching a document. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''General Comments'' field.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted to *http://www.regulations.gov*. The non-confidential summary will be placed in the docket and open to public inspection.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page; and

(3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax. A non-confidential summary of the confidential information must be submitted to *http://www.regulations.gov*. The non-confidential summary will be placed in the docket and open to public inspection.

USTR will maintain a docket on this dispute settlement proceeding, accessible to the public. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, any non-confidential submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel; and, if applicable, the report of the Appellate Body.

Comments will be placed in the docket and open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15 or information determined by USTR to be confidential in accordance with 19 U.S.C. 2155(g)(2). Comments may be viewed on the *http://www.regulations.gov* Web site by entering docket number USTR–2008–0043 in the search field on the home page.

Daniel Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. E9–5882 Filed 3–17–09; 8:45 am]

BILLING CODE 3190–W9–P

[1] *See Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from Thailand,* 69 FR 34122 (June 18, 2004), *Notice of Amended Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from Thailand,* 69 FR 42419 (July 15, 2004), *Antidumping Duty Order: Polyethylene Retail Carrier Bags from Thailand,* 69 FR 48204, 9 August 2004.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request; Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form 12b–25, OMB Control No. 3235–0058, SEC File No. 270–71.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

The purpose of Form 12b–25 (17 CFR 240.12b–25) is to provide notice to the Commission and the marketplace that a

public company will be unable to timely file a required periodic or transition report pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) and the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*). If all the filing conditions of the form are met, the company is granted an automatic filing extension. The information required is filed on occasion and is mandatory. All information is available to the public for review. Publicly held companies file Form 12b–25. Approximately 7,799 registrants file Form 12b–25 and it takes approximately 2.5 hours per response for a total of 19,498 burden hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and an e-mail to *Shagufta_Ahmed@omb.eop.gov*; and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: March 11, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–5768 Filed 3–17–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rules 17Ad–6 and 17Ad–7, OMB Control No. 3235–0291, SEC File No. 270–151.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the existing collection of information provided for in the following rules: Rule 17Ad–6 (17 CFR 240.17Ad–6) and Rule 17Ad–7 (17 CFR 240.17Ad–7) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act'').

Rule 17Ad–6 under the Exchange Act requires every registered transfer agent to make and keep current records about a variety of information, such as: (1) Specific operational data regarding the time taken to perform transfer agent activities (to ensure compliance with the minimum performance standards in Rule 17Ad–2 (17 CFR 240.17Ad–2); (2) written inquiries and requests by shareholders and broker-dealers and response time thereto; (3) resolutions, contracts or other supporting documents concerning the appointment or termination of the transfer agent; (4) stop orders or notices of adverse claims to the securities; and (5) all canceled registered securities certificates.

Rule 17Ad–7 under the Exchange Act requires each registered transfer agent to retain the records specified in Rule 17Ad–6 in an easily accessible place for a period of six months to six years, depending on the type of record or document. Rule 17Ad–7 also specifies the manner in which records may be maintained using electronic, microfilm, and microfiche storage methods.

These recordkeeping requirements are designed to ensure that all registered transfer agents are maintaining the records necessary for transfer agents to monitor and keep control over their own performance and for the Commission to adequately examine registered transfer agents on an historical basis for compliance with applicable rules.

The Commission estimates that approximately 600 registered transfer agents will spend a total of 300,000 hours per year complying with Rules 17Ad–6 and 17Ad–7 (500 hours per year per transfer agent).

The retention period for the recordkeeping requirements under Rule 17Ad–6 is six months to one year. In addition, such records must be retained for a total of two to six years or for one year after termination of the transfer agency, depending on the particular record or document. The recordkeeping requirements under Rules 17Ad–6 and 17Ad–7 are mandatory to assist the Commission and other regulatory agencies with monitoring transfer agents and ensuring compliance with the rule. This rule does not involve the collection of confidential information.

Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *Shagufta__Ahmed@omb.eop.gov*; and (ii) Charles Boucher, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to *PRA__Mailbox@sec.gov*. Comments must be submitted within 30 days of this notice.

Dated: March 11, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–5769 Filed 3–17–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–28647; 812–13641]

Automated Trading Desk Specialists, LLC, et al.; Notice of Application and Temporary Order

March 12, 2009.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Temporary order and notice of application for a permanent order under section 9(c) of the Investment Company Act of 1940 (''Act'').

SUMMARY OF APPLICATION: Applicants have received a temporary order exempting them from section 9(a) of the Act, with respect to an injunction entered against Automated Trading Desk Specialists, LLC (''ATDS'') on March 11, 2009 by the United States District Court for the Southern District of New York (the ''Injunction''), until the Commission takes final action on an application for a permanent order. Applicants also have applied for a permanent order.

APPLICANTS: ATDS, Citigroup Global Markets Inc. (''CGMI''), CEFOF GP I Corp. (''CEFOF''), CELFOF GP Corp. (''CELFOF''), Citibank, N.A. (''Citibank''), Citigroup Alternative Investments LLC (''Citigroup Alternative''), Citigroup Investment Advisory Services Inc. (''Citigroup Advisory''), Citigroup Capital Partners I GP I Corp. (''CCP I'') and Citigroup Capital Partners I GP II Corp. (''CCP II,'' and along with CGMI, CEFOF, CELFOF, Citibank, Citigroup Alternative, Citigroup Advisory and CCP I, the

''Fund Servicing Applicants,'' together with ATDS, the ''Applicants'').[1]

FILING DATE: The application was filed on March 12, 2009.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 6, 2009, and should be accompanied by proof of service on Applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants: ATDS, 401 S. LaSalle Street, Chicago, IL 60605; CGMI and Citigroup Advisory, 787 Seventh Avenue, New York, NY 10019; CEFOF, CELFOF, CCP I and CCP II, 388 Greenwich Street, New York, NY 10013; Citibank, 399 Park Avenue, New York, NY 10043; and Citigroup Alternative, 731 Lexington Avenue, 28th Floor, New York, NY 10022.

FOR FURTHER INFORMATION CONTACT: Jaea F. Hahn, Senior Counsel, at (202) 551–6870, or Julia Kim Gilmer, Branch Chief, at (202) 551–6821, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a temporary order and a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Room, 100 F Street, NE., Washington DC 20549–1520 (tel. 202–551–5850).

Applicants' Representations

1. Each of the Applicants is an indirect wholly-owned subsidiary of Citigroup Inc. (''Citigroup''), a financial holding company whose businesses provide a broad range of financial services to consumer and corporate customers. ATDS is a broker-dealer that was registered with the Commission under the Securities Exchange Act of 1934 (''Exchange Act'').[2] Citigroup acquired the parent company of ATDS, ATD Holdings, Inc., in 2007. ATDS has never served or acted an investment adviser or depositor to registered investment companies (''Funds''), including unit investment trusts (''UITs'') and face amount certificate companies, or as principal underwriter to Funds, nor does ATDS have any present intention of doing so in the future. ATDS currently has no operations.

2. CGMI is registered as a broker-dealer under the Exchange Act and serves as principal underwriter for one or more registered investment companies and as the depositor of certain unit investment trusts (''UITs,'' together with all other registered investment companies, ''Funds''). Citigroup Alternative and Citigroup Advisory are registered as investment advisers under the Investment Advisers Act of 1940 and serve as investment advisers for one or more Funds. CEFOF, CELOF, Citibank, and CCP I and CCP II (''ESC Advisers'') serve as investment advisers to certain employees' securities companies within the meaning of section 2(a)(13) of the Act, which provide investment opportunities for certain eligible employees, officers, directors and persons on retainer of Citigroup and its affiliates (''ESCs'' and included in the term ''Funds'').[3]

3. On March 11, 2009, the United States District Court for the Southern District of New York entered a final judgment, which included the Injunction, against ATDS (''Judgment'') in a matter brought by the Commission.[4] The Commission alleged in the complaint (''Complaint'') that ATDS violated certain rules of the Chicago Stock Exchange by engaging in improper trades for its own proprietary accounts by trading ahead of, instead of matching customer orders, interpositioning and trading ahead of unexecuted open or cancelled orders. The Complaint also alleged that ATDS violated section 17(a) of the Exchange Act and rule 17a–3 by failing to make or keep a current blotter containing an itemized daily record of all purchases and sales of securities effected by ATDS for its proprietary accounts. Without admitting or denying the allegations in the Complaint, except as to jurisdiction, ATDS consented to the entry of the Judgment that included, among other things, the entry of the Injunction.

Applicants' Legal Analysis

1. Section 9(a)(2) of the Act, in relevant part, prohibits a person who has been enjoined from engaging in or continuing any conduct or practice in connection with the purchase or sale of a security or in connection with activities as a broker or dealer, from acting, among other things, as an investment adviser or depositor of any registered investment company or a principal underwriter for any registered open-end investment company, registered UIT or registered face-amount certificate company. Section 9(a)(3) of the Act makes the prohibition in section 9(a)(2) applicable to a company, any affiliated person of which has been disqualified under the provisions of section 9(a)(2). Section 2(a)(3) of the Act defines ''affiliated person'' to include, among others, any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that ATDS is an affiliated person of each of the Fund Servicing Applicants within the meaning of section 2(a)(3) of the Act. Applicants state that the entry of the Injunction results in Applicants being subject to the disqualification provisions of section 9(a) of the Act.

2. Section 9(c) of the Act provides that the Commission shall grant an application for exemption from the disqualification provisions of section 9(a) of the Act if it is established that these provisions, as applied to Applicants, are unduly or disproportionately severe or that the Applicants' conduct has been such as not to make it against the public interest or the protection of investors to grant the exemption. Applicants have filed an application pursuant to section 9(c) seeking a temporary and permanent order exempting them and Covered Persons from the disqualification provisions of section 9(a) of the Act.

3. Applicants believe they meet the standard for exemption specified in section 9(c). Applicants state that the prohibitions of section 9(a) as applied to the Fund Servicing Applicants would be unduly and disproportionately severe and that the conduct of Applicants has been such as not to make it against the public interest or the protection of investors to grant the exemption from section 9(a).

4. Applicants state that the alleged conduct giving rise to the Injunction did not involve any of the Applicants acting in the capacity of investment adviser,

[1] Applicants request that any relief granted pursuant to the application also apply to any other company of which ATDS is or hereafter may become an affiliated person within the meaning of section 2(a)(3) of the Act (together with the Applicants, the ''Covered Persons'').

[2] ATDS deregistered with the Commission as a broker-dealer on July 16, 2004.

[3] Greenwich Street Employees Fund, LP, *et al.*, Investment Company Act Release Nos. 25324 (Dec. 21, 2001) (notice) and 25367 (Jan. 16, 2002) (order).

[4] *Securities and Exchange Commission* v. *Automated Trading Desk Specialists, LLC.,* Final Consent Judgment as to Automated Trading Desk Specialists LLC., 1:09cv1977 (LTS) (S.D.N.Y., Mar. 11, 2009).

subadviser or depositor to a Fund, or principal underwriter for any open-end Fund or UIT and that the conduct occurred prior to Citigroup's acquisition of the parent company of ATDS when the Fund Servicing Applicants were not affiliated persons of ATDS. Applicants also state that none of the current or former directors, officers, or employees of the Fund Servicing Applicants had any involvement in the conduct alleged in the Complaint. Applicants further state that the personnel at ATDS who allegedly participated in the conduct giving rise to the Injunction have had no and will not have any future involvement in providing advisory, subadvisory or depository services to Funds, or principal underwriting services to open-end Funds or UITs and are no longer employed by ATDS.

5. Applicants state that the inability of the Fund Servicing Applicants to continue to serve as investment adviser, depositor or principal underwriter to the Funds would result in potentially severe financial hardships for the Funds and their shareholders. Applicants have distributed, or will distribute as soon as reasonably practical, written materials, including an offer to meet in person to discuss the materials, to the board of directors of each Fund, including the directors who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of such Fund, and their independent legal counsel as defined in rule 0–1(a)(6) under the Act, if any, regarding the Judgment, any impact on the Funds, and the application. Applicants state they will provide the Funds with all information concerning the Judgment and the application that is necessary for the Funds to fulfill their disclosure and other obligations under the Federal securities laws.

6. Applicants also state that, if the Fund Servicing Applicants were barred from serving as investment adviser, depositor or principal underwriter to the Funds, the effect on their businesses and employees would be severe. Applicants state that the Fund Servicing Applicants have committed substantial resources to establish an expertise in providing services covered by section 9(a) of the Act to Funds. Applicants further state that prohibiting the Fund Servicing Applicants from providing advisory and distribution services would not only adversely affect their businesses, but would also adversely affect approximately 50 employees that are involved in those activities. Applicants also state that disqualifying the ESC Advisers from continuing to provide investment advisory services to ESCs is not in the public interest or in furtherance of the protection of investors. Because the ESCs have been formed for the benefit of certain eligible employees, officers, directors and persons on retainer of Citigroup and its affiliates, it would not be consistent with the purposes of the ESC provisions of the Act or the ESC Order to require another entity not affiliated with the ESC Advisers to manage the ESCs. In addition, the employees of Citigroup and its affiliates subscribed for interests in the ESCs with the expectation that the ESCs would be managed by an affiliate of Citigroup.

7. Applicants previously have received exemptions under section 9(c) as the result of conduct that triggered section 9(a) as described in greater detail in the application.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Any temporary exemption granted pursuant to the application shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigation of, or administrative proceedings involving or against, Covered Persons, including without limitation, the consideration by the Commission of a permanent exemption from section 9(a) of the Act requested pursuant to the application or the revocation or removal of any temporary exemptions granted under the Act in connection with the application.

Temporary Order

The Commission has considered the matter and finds that Applicants have made the necessary showing to justify granting a temporary exemption.

Accordingly,

it is hereby ordered, pursuant to section 9(c) of the Act, that the Applicants and any other Covered Persons are granted a temporary exemption from the provisions of section 9(a), solely with respect to the Injunction, subject to the condition in the application, from March 11, 2009, until the Commission takes final action on their application for a permanent order.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–5790 Filed 3–17–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–28645; 812–13639]

E*TRADE Capital Markets LLC, et al.; Notice of Application and Temporary Order

March 12, 2009.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Temporary order and notice of application for a permanent order under section 9(c) of the Investment Company Act of 1940 (''Act'').

SUMMARY OF APPLICATION: Applicants have received a temporary order exempting them from section 9(a) of the Act, with respect to an injunction entered against E*TRADE Capital Markets LLC (''ETCM'') on March 11, 2009, by the United States District Court for the Southern District of New York (''Injunction'') until the Commission takes final action on an application for a permanent order. Applicants also have applied for a permanent order.

APPLICANTS: ETCM, E*TRADE Financial Corporation (''ETFC''), E*TRADE Asset Management, Inc. (''E*TRADE Asset Management''), E*TRADE Securities LLC (''E*TRADE Securities'') and Kobren Insight Management, Inc. (''Kobren'') (collectively, other than ETCM and ETFC, the ''Fund Servicing Applicants,'' and together, the ''Applicants'').[1]

FILING DATES: The application was filed on March 4, 2009 and amended on March 12, 2009.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 6, 2009, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

[1] Applicants request that any relief granted pursuant to the application also apply to any other company of which ETCM is or hereafter becomes an affiliated person within the meaning of section 2(a)(3) of the Act (together with the Applicants, the ''Covered Persons'').

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090; Applicants: ETCM, 440 S. LaSalle Street, Suite 3030, Chicago, IL 60605; ETFC and E*TRADE Securities, 135 E. 57th Street, New York, NY 10022; E*TRADE Asset Management, 4500 Bohannon Drive, Menlo Park, CA 94025; and Kobren, 20 William Street, Suite 200, Wellesley Hills, MA 02481.

FOR FURTHER INFORMATION CONTACT: Jaea F. Hahn, Senior Counsel, at 202–551–6878 or Julia Kim Gilmer, Branch Chief, at 202–551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a temporary order and summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Room, 100 F Street NE., Washington DC 20549–1520 (tel. 202–551–5850).

Applicants' Representations

1. ETFC is a global financial services company organized under the laws of Delaware. Through its subsidiaries and affiliates, ETFC provides a wide range of financial services including an assortment of trading, investing, banking and lending products. ETCM is a wholly owned subsidiary of ETFC and is registered as a broker-dealer under the Securities Exchange Act of 1934 (''Exchange Act''). ETCM is primarily engaged in the business of over-the-counter market making activities. E*TRADE Asset Management and Kobren (together, the ''Adviser Applicants'') are each a wholly owned subsidiary of ETFC and registered as an investment adviser under the Investment Advisers Act of 1940. Each Adviser Applicant currently provides investment management and advisory services to registered investment companies (''Funds''). E*TRADE Securities is registered as a broker-dealer under the Exchange Act and acts as principal underwriter to various open-end Funds.

2. On March 11, 2009, the United States District Court for the Southern District of New York entered a judgment, which included the Injunction, against ETCM (''Judgment'') in a matter brought by the Commission.[2] The Commission alleged in the complaint (''Complaint'') that ETCM violated certain rules of the Chicago Stock Exchange by engaging in improper trades for its own proprietary accounts by trading ahead of, instead of matching customer orders, interpositioning and trading ahead of unexecuted open or cancelled orders. The Complaint also alleged that ETCM violated section 17(a) of the Exchange Act and rule 17a-3 thereunder by failing to make or keep a current blotter containing an itemized daily record of all purchases and sales of securities effected by ETCM for its proprietary accounts. Without admitting or denying any of the allegations in the Complaint, ETCM consented to the entry of the Injunction.

Applicants' Legal Analysis

1. Section 9(a)(2) of the Act, in relevant part, prohibits a person who has been enjoined from engaging in or continuing any conduct or practice in connection with the purchase or sale of a security, or in connection with activities as broker or dealer, from acting, among other things, as an investment adviser or depositor of any registered investment company or a principal underwriter for any registered open-end investment company, registered unit investment trust, or registered face-amount certificate company. Section 9(a)(3) of the Act makes the prohibition in section 9(a)(2) applicable to a company, any affiliated person of which has been disqualified under the provisions of section 9(a)(2). Section 2(a)(3) of the Act defines ''affiliated person'' to include, among others, any person directly or indirectly controlling, controlled by, or under common control, with the other person. Applicants state that ETCM is an affiliated person of each of the other Applicants within the meaning of section 2(a)(3). Applicants state that, as a result of the Injunction, they would be subject to the prohibitions of section 9(a).

2. Section 9(c) of the Act provides that the Commission shall grant an application for exemption from the disqualification provisions of section 9(a) of the Act if it is established that these provisions, as applied to Applicants, are unduly or disproportionately severe or that the conduct of the Applicants has been such as not to make it against the public interest or the protection of investors to grant the exemption. Applicants have filed an application pursuant to section 9(c) seeking a temporary and permanent order exempting the Applicants and the other Covered Persons from the disqualification provisions of section 9(a).

3. Applicants believe that they meet the standards for exemption specified in section 9(c). Applicants state that the prohibitions of section 9(a) as applied to them would be unduly and disproportionately severe and that the conduct of Applicants has been such as not to make it against the public interest or the protection of investors to grant the requested exemption from section 9(a).

4. Applicants state that the alleged conduct giving rise to the Injunction did not involve any of the Applicants acting in the capacity of investment adviser, subadviser or depositor or principal underwriter for any Fund. Applicants also state that none of the current or former directors, officers, or employees of ETFC and the Fund Servicing Applicants had any knowledge or involvement in the conduct alleged in the Complaint. Applicants further state that the personnel at ETCM who were involved in the violations alleged in the complaint have had no and will not have any future involvement in providing advisory, subadvisory, depository or underwriting services to Funds.

5. Applicants state that the inability of the Adviser Applicants to provide investment advisory services and E*TRADE Securities to provide principal underwriter services to Funds would result in potentially severe financial hardships for the Funds and their shareholders. Applicants state that they will distribute written materials, including an offer to meet in person to discuss the materials, to the boards of trustees of the Funds (the ''Boards''), including the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of such Funds, and their independent legal counsel as defined in rule 0–1(a)(6) under the Act, if any, of the circumstances that led to the Injunction, any impact on the Funds, and the application. Applicants state that they will provide the Boards with all information concerning the Injunction and the application that is necessary for the Funds to fulfill their disclosure and other obligations under the federal securities laws.

6. Applicants also state that, if the Fund Servicing Applicants were barred from providing investment advisory services to the Funds, and underwriting services to open-end Funds and UITs, the effect on their businesses and employees would be severe. Applicants state that they have committed substantial resources to establishing advisory and underwriting expertise. Applicants further state that prohibiting them from providing advisory and underwriting services would not only adversely affect their businesses, but

[2] *Securities and Exchange Commission* v. *E*TRADE Capital Markets LLC.* Final Consent Judgment as to E*TRADE Capital Markets LLC., 09 Civ. 1976 (S.D.N.Y., filed March 11, 2009).

would also adversely affect over 1,500 employees that are involved in such services.

7. None of the Applicants have previously received an order under section 9(c) of the Act.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Any temporary exemption granted pursuant to the application shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigation of, or administrative proceedings involving or against, Covered Persons, including without limitation, the consideration by the Commission of a permanent exemption from section 9(a) of the Act requested pursuant to the application or the revocation or removal of any temporary exemptions granted under the Act in connection with the application.

Temporary Order

The Commission has considered the matter and finds that the Applicants have made the necessary showing to justify granting a temporary exemption.

Accordingly,

It is hereby ordered, pursuant to section 9(c) of the Act, that Applicants and any other Covered Persons are granted a temporary exemption from the provisions of section 9(a), solely with respect to the Injunction, subject to the condition in the application, from March 11, 2009, until the Commission takes final action on their application for a permanent order.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–5785 Filed 3–17–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, March 19, 2009 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), 9(B) and (10) and 17 CFR 200.402(a)(5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Walter, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting scheduled for Thursday, March 19, 2009 will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature;

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

March 12, 2009.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–5791 Filed 3–17–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on Wednesday, April 8, 2009 at 10 a.m., in the Auditorium, Room L–002.

The subject matter of the Open Meeting will be:

The Commission will consider whether to propose short sale price test rules.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: March 13, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–5932 Filed 3–16–09; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59552; File No. SR–CTA/CQ–2008–05]

Consolidated Tape Association; Order Approving the Thirteenth Substantive Amendment to the Second Restatement of the Consolidated Tape Association Plan and the Ninth Substantive Amendment to the Restated Consolidated Quotation Plan

March 10, 2009.

I. Introduction

On December 15, 2008, the Consolidated Tape Association (''CTA'') Plan and Consolidated Quotation (''CQ'') Plan participants (''Participants'') [1] filed with the Securities and Exchange Commission (''Commission'') pursuant to Rule 608 [2] under the Securities Exchange Act of 1934 (''Act'') [3] a proposal to amend the CTA and CQ Plans (collectively, the ''Plans'') [4] to provide that the Participants will pay the Network A Administrator a fixed annual fee (''Annual Fixed Payment'') in exchange for its performance of Network A administrator functions under the Plans. The proposed Amendments were published for comment in the **Federal Register** on January 21, 2008.[5] No comment letters were received in response to the Notice. This order approves the Amendments.

[1] Each Participant executed the proposed amendment. The Participants are the American Stock Exchange LLC (n/k/a NYSE Alternext U.S. LLC); Boston Stock Exchange, Inc. (n/k/a NASDAQ OMX BX, Inc.); Chicago Board Options Exchange, Incorporated; Chicago Stock Exchange, Inc.; Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC; The NASDAQ Stock Market LLC (''Nasdaq''); National Stock Exchange, Inc.; New York Stock Exchange LLC (''NYSE''); NYSE Arca, Inc.; and Philadelphia Stock Exchange, Inc. (n/k/a NASDAQ OMX PHLX, Inc.).

[2] 17 CFR 240.608.

[3] 15 U.S.C. 78k–1.

[4] *See* Securities Exchange Act Release Nos. 10787 (May 10, 1974), 39 FR 17799 (order approving CTA Plan); 15009 (July 28, 1978), 43 FR 34851 (August 7, 1978) (order temporarily approving CQ Plan); and 16518 (January 22, 1980), 45 FR 6521 (order permanently approving CQ Plan). The most recent restatement of both Plans was in 1995. The CTA Plan, pursuant to which markets collect and disseminate last sale price information for non-NASDAQ listed securities, is a ''transaction reporting plan'' under Rule 601 under the Act, 17 CFR 242.601, and a ''national market system plan'' under Rule 608 under the Act, 17 CFR 242.608. The CQ Plan, pursuant to which markets collect and disseminate bid/ask quotation information for listed securities, is a ''national market system plan'' under Rule 608 under the Act, 17 CFR 242.608.

[5] *See* Securities Exchange Act Release No. 59230 (January 12, 2008), 74 FR 3659 (''Notice'').

II. Description of the Proposal

Section XII (''Financial Matters'') of the CTA Plan and Section IX (''Financial Matters'') of the CQ Plan each provide that a network's Operating Expenses are to be deducted from the network's Gross Income before determining the amounts that the network's administrator will distribute to the Participants. Both Section XII(c)(i) (''Determination of Operating Expenses'') of the CTA Plan and Section IX(c)(i) (''Determination of Operating Expenses'') of the CQ Plan currently provide that a network's Operating Expenses include all costs and expenses that the network's administrator incurs in ''collecting, processing and making available Network A market data.'' The Network A Administrator stated that accounting for operating costs, especially the allocation of organization overhead costs to the Network A Administrator function, is administratively burdensome. And as a result, the Network A Participants have proposed to replace their payment to the Network A Administrator of Operating Expenses with an Annual Fixed Payment. In the case of NYSE as the CTA and CQ Network A Administrator, the Participants proposed that ''Operating Expenses'' for any calendar year equal: (1) The Annual Fixed Payment for that year; plus (2) ''Extraordinary Expenses.'' Extraordinary Expenses would include that portion of legal and audit expenses and marketing and consulting fees that are outside of the ordinary and customary functions that a network administrator performs.[6]

For calendar year 2008, the Network A Participants voted to set the Annual Fixed Payment at $6,000,000 to compensate the Network A Administrator for its Network A administrative services during 2008 under both the CTA and CQ Plans. For each subsequent calendar year the Annual Fixed Payment shall increase (but not decrease) by the percentage increase (if any) in the annual cost-of-living adjustment (''COLA'') that the U.S. Social Security Administration applies to the Supplemental Security Income for the calendar year preceding that subsequent year, subject to a maximum annual increase of five percent.[7]

Discussion

After careful review, the Commission finds that the Amendments to the Plans are consistent with the requirements of the Act and the rules and regulations thereunder,[8] and, in particular, Section 11A(a)(1) of the Act[9] and Rule 608 thereunder[10] in that they are necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system. The Commission believes that permitting the Network A Administrator to assess a flat fee should increase the efficiency of the administration of the Plans.[11] Additionally, the Commission notes that every two years the Network A Administrator is required to provide a report detailing any significant changes to the administrative expenses during the preceding two years to enable the Participants to review and determine by majority vote whether to continue the Annual Fixed Payment at its then current level.

IV. Conclusion

It is therefore ordered, pursuant to Section 11A of the Act,[12] and Rule 608 thereunder,[13] that the proposed amendments to the CTA and CQ Plans (SR–CTA/CQ–2008–05) are approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–5767 Filed 3–17–09; 8:45 am]

BILLING CODE 8011–01–P

[6] The Commission notes that the Transmittal Letter accompanying the proposed Amendments included language not voted on by the Participants and thus not included in the proposed Amendments: ''Network A Administrator will not incur any extraordinary expense on behalf of the Network A Participants unless the Network A Participants determine by majority vote to approve the incurrence of that extraordinary expense.'' This language is not part of the proposed Amendments that the Commission is approving today.

[7] *See* Notice, *supra* note 5 at 3660 for a more detailed description of how the fee will be assessed

[8] The Commission has considered the proposed amendments' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78k–1(a)(1).

[10] 17 CFR 240.608.

[11] The Commission notes that Nasdaq similarly receives a fixed fee for its performance of administrative functions under the ''Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on Unlisted Trading Privileges Basis.''

[12] 15 U.S.C. 78k–1.

[13] 17 CFR 240.608.

[14] 17 CFR 200.30–3(a)(27).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59567; File No. SR–ISE–2009–12]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee Changes

March 12, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 6, 2009, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to amend its Schedule of Fees to establish fees for transactions in options on 2 Premium Products.[3] The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Premium Products is defined in the Schedule of Fees as the products enumerated therein.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend its Schedule of Fees to establish fees for transactions in options on the iShares U.S. Preferred Stock Index Fund (''PFF'')[4] and the United States 12 Month Oil Fund, LP (''USL'').[5] The Exchange represents that PFF and USL are eligible for options trading because they constitute ''Exchange-Traded Fund Shares,'' as defined by ISE Rule 502(h).

All of the applicable fees covered by this filing are identical to fees charged by the Exchange for all other Premium Products. Specifically, the Exchange is proposing to adopt an execution fee for all transactions in options on PFF and USL.[6] The amount of the execution fee for products covered by this filing shall be $0.18 per contract for all Public Customer Orders[7] and $0.20 per contract for all Firm Proprietary orders. The amount of the execution fee for all ISE Market Maker transactions shall be equal to the execution fee currently charged by the Exchange for ISE Market Maker transactions in equity options.[8] Finally, the amount of the execution fee for all non-ISE Market Maker transactions shall be $0.45 per contract.[9] Further, since options on PFF and USL are multiply-listed, the Exchange's Payment for Order Flow fee shall apply to all these products. The Exchange believes the proposed rule change will further the Exchange's goal of introducing new products to the marketplace that are competitively priced.

Further, the Exchange proposes to amend its Schedule of Fees to remove the surcharge fee previously adopted for transactions in options on the iShares S&P MidCap 400 Index Fund (''IJH''), the iShares S&P SmallCap 600 Index Fund (''IJR''),[10] and the iShares S&P SmallCap 600 Value Index Fund (''IJS'').[11] The Exchange is proposing to remove the surcharge fee from its Schedule of Fees because it no longer pays a license fee to Standard & Poor's in connection with transactions in options on IJH, IJR and IJS. Accordingly, there is no longer a need for this surcharge fee. The Exchange will, however, continue to charge an execution fee for transactions in options on IJH, IJR and IJS.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[12] in general, and furthers the objectives of Section 6(b)(4),[13] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act[14] and Rule 19b–4(f)(2)[15] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–ISE–2009–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–ISE–2009–12. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's

[4] iShares® is a registered trademark of Barclays Global Investors, N.A. (''BGI''). ''Standard & Poor's®'' and ''S&P®'' are trademarks of The McGraw-Hill Companies, Inc. (''McGraw-Hill'') and have been licensed for use for certain purposes by BGI. All other trademarks and service marks are the property of their respective owners. iShares U.S. Preferred Stock Index Fund (''PFF'') is not sponsored, endorsed, issued, sold or promoted by Standard & Poor's, (''S&P''), a division of McGraw-Hill, and S&P makes no representation regarding the advisability of investing in PFF. BGI and S&P have not licensed or authorized ISE to (i) engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on PFF or (ii) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on PFF or with making disclosures concerning options on PFF under any applicable federal or state laws, rules or regulations. BGI and S&P do not sponsor, endorse, or promote such activity by ISE, and are not affiliated in any manner with ISE.

[5] The United States 12 Month Oil Fund, LP (''USL'') is distributed by ALPS Distributors, Inc. (''ALPS''), administered by Brown Brothers Harriman & Co. (''BBH'') and United States Commodity Fund, LLC (''USCF'') is the General Partner. ALPS, BBH and USCF have not licensed or authorized ISE to (i) engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on USL or (ii) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on USL or with making disclosures concerning options on USL under any applicable federal or state laws, rules or regulations. ALPS, BBH and USCF do not sponsor, endorse, or promote such activity by ISE, and are not affiliated in any manner with ISE.

[6] These fees will be charged only to Exchange members. Under a pilot program that is set to expire on July 31, 2009, these fees will also be charged to Linkage Principal Orders (''Linkage P Orders'') and Linkage Principal Acting as Agent Orders (''Linkage P/A Orders''). The amount of the execution fee charged by the Exchange for Linkage P Orders and Linkage P/A Orders is $0.27 per contract side and $0.18 per contract side, respectively. *See* Securities Exchange Act Release No. 58143 (July 11, 2008), 73 FR 41388 (July 18, 2008) (SR–ISE–2008–52).

[7] Public Customer Order is defined in Exchange Rule 100(a)(39) as an order for the account of a Public Customer. Public Customer is defined in Exchange Rule 100(a)(38) as a person or entity that is not a broker or dealer in securities.

[8] The Exchange applies a sliding scale, between $0.01 and $0.18 per contract side, based on the number of contracts an ISE market maker trades in a month.

[9] The amount of the execution fee for non-ISE Market Maker transactions executed in the Exchange's Facilitation and Solicitation Mechanisms is $0.20 per contract.

[10] *See* Securities Exchange Act Release No. 34–49557 (April 12, 2004), 69 FR 20955 (April 19, 2004).

[11] *See* Securities Exchange Act Release No. 34–54414 (September 7, 2006), 71 FR 54546 (September 15, 2006).

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(4).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(2).

Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–ISE–2009–12 and should be submitted on or before April 8, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–5779 Filed 3–17–09; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59551; File No. SR–NYSE–2009–24]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC Extending for Two Months to May 31, 2009 the Moratorium Related to the Qualification and Registration of Registered Competitive Market Makers Pursuant to NYSE Rule 107A and Competitive Traders Pursuant to NYSE Rule 110

March 10, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 3, 2009, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend for two months to May 31, 2009 the moratorium related to the qualification and registration of Registered Competitive Market Makers (''RCMMs'') pursuant to NYSE Rule 107A and Competitive Traders (''CTs'') pursuant to NYSE Rule 110.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend for two months to May 31, 2009 the moratorium related to the qualification and registration of RCMMs pursuant to NYSE Rule 107A and CTs pursuant to NYSE Rule 110.

On September 22, 2005, the Exchange filed SR–NYSE–2005–63[4] with the Securities and Exchange Commission (''Commission'') proposing to implement a moratorium on the qualification and registration of new RCMMS and CTs (''Moratorium''). The purpose of the Moratorium was to allow the Exchange an opportunity to review the viability of RCMMs and CTs in the NYSE HYBRID MARKET℠ (''Hybrid Market'').[5]

During each phase of the Hybrid Market, the NYSE implemented new system functionality that generated additional data to review. As a result, the Exchange was unable to make an informed decision as to the viability of RCMMs and CTs in the Hybrid Market. The phasing in implementation of the Hybrid Market required the Exchange to extend the Moratorium an additional six times over a twenty-four (24) month period.[6] During the Moratorium, the Exchange reviewed the quarterly volume data of RCMM and CT trading data to determine the average trading volume of RCMMs.

On October 24, 2008, the Commission approved the Exchange's new market model filing (''Next Generation NYSE'').[7] The Next Generation NYSE filing: (i) provided market participants with additional abilities to post hidden liquidity on Exchange systems; (ii) created a Designated Market Maker (''DMM''), and phased out the NYSE specialist; and (iii) enhanced the speed of execution through technological enhancements and a reduction in message traffic between Exchange systems and its DMMs. In light of the implementation of Next Generation NYSE, the Exchange requested extensions of the Moratorium to evaluate the viability of the RCMMs and CTs in the proposed Next Generation NYSE.[8]

Next Generation NYSE is currently operating as a pilot scheduled to end on October 1, 2009. The Exchange continued to review RCMM and CT trading data. As a result of its review, the Exchange concluded that RCMMs and CTs no longer serve as viable supplemental market makers. Accordingly, the Exchange determined that RCMMs and CTs should no longer be viable classes of traders on the Exchange and will formally file a separate proposed rule change with the Commission to eliminate RCMMs and CTs as viable classes of NYSE traders.

[4] *See* Securities Exchange Act Release No. 52648 (October 21, 2005), 70 FR 62155 (October 28, 2005) (SR–NYSE–2005–63).

[5] *See* Securities Exchange Act Release No. 53539 (March 22, 2006), 71 FR 16353 (March 31, 2006) (SR–NYSE–2004–05) (establishing the NYSE HYBRID MARKET℠).

[6] *See* Securities Exchange Act Release Numbers 54140 (July 13, 2006), 71 FR 41491 (July 21, 2006) (SR–NYSE–2006–48); 54985 (December 21, 2006), 72 FR 171 (January 3, 2007) (SR–NYSE–2006–113); 55992 (June 29, 2007), 72 FR 37289 (July 9, 2007) (SR–NYSE–2007–57); 56556 (September 27, 2007), 72 FR 56421 (October 3, 2007) (SR–NYSE–2007–86); 57072 (December 31, 2007), 73 FR 1252 (January 7, 2008) (SR–NYSE–2007–125); 57601 (April 2, 2008), 73 FR 19123 (April 8, 2008) (SR–NYSE–2008–22).

[7] *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46).

[8] *See* Securities Exchange Act Release Numbers 58033 (June 26, 2008), 73 FR 38265 (July 3, 2008) (SR–NYSE–2008–49); 58713 (October 2, 2008), 73 FR 59024 (October 8, 2008) (SR–NYSE–2008–96); 59069 (December 8, 2008), 73 FR 76081 (December 15, 2008) (SR–NYSE–2008–124).

The Exchange therefore proposes to extend the Moratorium as amended [9] for an additional two (2) months to May 31, 2009 in order to complete the 19b–4 filing process.[10] The Exchange's proposal will be filed consistent with the Act [11] in order to afford interested persons an opportunity to submit written data, views, and arguments concerning the Exchange's proposal.[12]

The Exchange will issue an Information Memo announcing the extension of the Moratorium.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the ''Act'') for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the instant filing is consistent with these principles. Based on its review of data associated with RCMM and CT trading, the Exchange has concluded that RCMMs and CTs no longer serve as viable supplemental market makers. In this instant filing, the Exchange seeks an extension of the Moratorium to finalize its proposal to eliminate RCMMs and CTs from the NYSE and will file that proposal with the Commission.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act.[13] The Exchange asserts that the proposed rule change (i) will not significantly affect the protection of investors or the public interest, (ii) will not impose any significant burden on competition, and (iii) by its terms, will not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

An extension of the Moratorium does not burden competition because it does not restrict RCMMs from joining any RCMM firm or becoming or remaining an independent RCMM nor does it restrict any RCMM firm from hiring existing RCMMs. For the foregoing reasons, this rule filing qualifies for immediate effectiveness as a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4.[14]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2009–24 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2009–24. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2009–24 and should be submitted on or before April 8, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–5766 Filed 3–17–09; 8:45 am]

BILLING CODE 8011–01–P

[9] *See* Securities Exchange Act Release No. 53549 (March 24, 2006), 71 FR 16388 (March 31, 2006) (SR–NYSE–2006–11) (making certain amendments to the Moratorium).

[10] 17 CFR 240.19b–4.

[11] 15 U.S.C. 78s(a)(1).

[12] *Id.*

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Davidson County and Forsyth County, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the proposed roadway improvements to NC 109 between Old Greensboro Road (SR 1798) in Davidson County and I–40/US 311 in Forsyth County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Clarence W. Coleman, PE, Director of Preconstruction and Environment, Federal Highway Administration, 310 New Bern Avenue, Suite 410, Raleigh, North Carolina 27601–1418, Telephone: (919) 747–7014, or Vincent J. Rhea, PE, Project Engineer, North Carolina Department of Transportation, 1548 Mail Service Center, Raleigh, North Carolina 27699–1548, Telephone: (919) 733–7844, ext. 261.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Carolina Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal for improving NC 109, through widening and/or constructing new roadway, between Old Greensboro Road and I–40/US 311. The project is included in the North Carolina Department of Transportation (NCDOT) 2009–2015 Transportation Improvement Program (TIP) as TIP No. R–2568C. Improvements to the section of NC 109 south of Old Greensboro Road, extending south to Business I–85 in the City of Thomasville, were completed in 2007. The current project includes one alternative mainly on existing location and four alternatives mainly on new location. The project would be constructed as a four-lane, median-divided roadway with partial control of access. Directional crossovers with offset left turns will be used at many of the major intersections. Improvements to NC 109 are considered necessary to improve traffic flow and service and to reduce conflicts between through traffic and local traffic. As required by Section 6002 of the Safe Accountable Flexible Efficient Transportation Equity Act: ''A Legacy for Users'', opportunities have been provided for involvement with the public in defining the project purpose and need and determining the range of alternatives to be considered for the project. Further opportunities for the public to comment on the environmental review process will be provided throughout the remainder of the project development process.

Prior to the initiation of environmental studies in preparation of an Environmental Impact Statement (EIS), a scoping letter soliciting comments on the proposed project was sent in December 2003 to the local, state, and federal agencies by NCDOT. The agency scoping meeting for the project was held in January 2004. No further scoping actions are planned.

Since the start of the project, NCDOT has hosted two rounds of Citizens Informational Workshops. The first round was held in April 2004 to announce the start of the project and to obtain public input concerning the location of potential alternatives. The second round was held in November 2005 to present and obtain public comments on five alternative corridors identified for the project.

In 1997, the U.S. Army Corp of Engineers (USACE), FHWA, and NCDOT signed an Interagency Agreement integrating Section 404 and the National Environmental Policy Act (NEPA) of 1969, known as the Section 404/NEPA Merger Process. The agreement requires the establishment of a project team at the beginning of each transportation project and outlines the coordination process with a series of Concurrence Points in order to promote cooperation and coordination during the study process and to ensure compatibility with local, state and federal planning projects and policies. To date, project merger team meetings have been held in September 2004 and August 2006. Upon completion of the draft EIS, a public hearing will be held, with public notice of the time and place of the hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: March 12, 2009.

Clarence W. Coleman,

Director of Preconstruction & Environment, Raleigh, North Carolina.

[FR Doc. E9–5800 Filed 3–17–09; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, improvement of the Interstate 680 and State Route 4 interchange in the community of Pacheco, County of Contra Costa, State of California. The improvements will be between post mile 20.2 and 22.2 on Interstate 680, and between post mile R10.5 and R15.1 on State Route 4. Those actions grant approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before September 14, 2009. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Melanie Brent, Chief, Office of Environmental Analysis, California Department of Transportation, District 4, 111 Grand Avenue, Oakland, 9 a.m. to 4 p.m., 510–286–5231, *melanie.brent@dot.ca.gov*.

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing approvals for the following highway project in the State of California: Replacing the northbound I–680 to westbound SR 4 loop ramp with a two-lane direct connector, and the eastbound SR 4 to southbound I–680 diagonal ramp with another two-lane connector in the first two phases of the project to improve operational deficiencies. Subsequent phases add another lane in the median of both directions of SR 4 to provide additional weaving capacity, add an auxiliary lane on eastbound SR 4 from the interchange to the Solano Way off-ramp, and replace the southbound I–680 to eastbound SR 4 loop ramp, the northbound I–680 to eastbound SR 4 diagonal ramp, and the westbound SR 4 to northbound I–680 diagonal ramp with new connectors and ramps, and widen the westbound SR 4 to southbound I–680 loop ramp from one to two lanes. The project had a No Build Alternative in addition to the Build

alternative. The anticipated permits include:

• 401 Water Quality Certification (from the Regional Water Quality Control Board under Section 401 of the Clean Water Act).

• 404 Nationwide Permit (from the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act).

A public hearing/open house was held in Pacheco on August 22, 2006. The Environmental Assessment, Finding of No Significant Impact, which were approved on 26 November 2008, and other documents are available for public and agency review at the Caltrans address provided above.

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Environmental Assessment (EA) for the project, approved on 26 November 2008, in the FHWA Finding of No Significant Impact (FONSI) issued on 26 November 2008, and in other documents in the FHWA project records. The EA, FONSI, and other project records are available by contacting Caltrans at the address provided above. The Caltrans EA and FONSI can be viewed and downloaded from the project Web site at *http://www.dot.ca.gov/dist4/envdocs.htm*, or viewed at public libraries in the project area.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal Highway Act [23 U.S.C. 109].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and section 1536], Migratory Bird Treaty Act [16 U.S.C. 703–712].

4. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act, as amended [16 U.S.C. 470(aa)–11]; Archaeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act [25 U.S.C. 3001–3013].

5. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; The Uniform Relocation Assistance Act and Real Property Acquisition Policies Act of 1970.

6. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901–6992(k)].

7. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority and Low Income Populations; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: March 11, 2009.

Cindy Vigue,

Director, State Programs, Federal Highway Administration, Sacramento, California.

[FR Doc. E9–5808 Filed 3–17–09; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in Washington

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA.

SUMMARY: This notice announces actions taken by FHWA that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, the SR 99 S. Holgate Street to S. King Street Viaduct Replacement Project, in the State of Washington. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before September 14, 2009. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Sharon Love, Environmental Program Manager, Federal Highway Administration, 711 S. Capitol Way, Suite 501, Olympia, Washington, 98501; telephone: (360) 753–9558; and e-mail: *sharon.love@dot.gov*. The FHWA Washington Division's Environmental Manager's regular office hours are between 8 a.m. and 4:30 p.m. (Pacific Time). You may also contact Angela Freudenstein, Environmental Manager, 999 Third Ave., Suite 2424, Seattle, WA 98104; telephone: 206–382–5230; and e-mail: *freuda@wsdot.wa.gov*. The SR 99 Project's regular office hours are between 8 a.m. and 5 p.m. (Pacific Time).

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA has taken final agency actions by issuing licenses, permits, and approvals for the following highway project: SR 99 S. Holgate Street to S. King Street Viaduct Replacement Project. The purpose of the project is to replace the seismically vulnerable SR 99 mainline with a seismically sound facility between approximately S. Holgate Street and S. King Street. The new SR 99 facility would maintain or improve access to, from, and across SR 99 for general purpose vehicles, transit, and freight. The project is located in the south downtown (SODO) area of Seattle, King County.

The actions by FHWA on this project, and the laws under which such actions were taken, are described in the June 2008 Environmental Assessment (EA), February 2009 Finding of No Significant Impact (FONSI), and in other documents in the FHWA administrative record for the project. The EA, FONSI and other documents in the FHWA administrative record are available by contacting FHWA or the Washington State Department of Transportation at the addresses provided above.

The EA and FONSI can be viewed and downloaded from the project Web site at *www.alaskanwayviaduct.org* or viewed at the Seattle Public Library as well as local neighborhood service centers in the project area. This notice applies to all Federal agency decisions on the project as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air:* Clean Air Act, as amended [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544]; Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(g)]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Magnuson-Stevenson Fishery Conservation and Management Act of

1976, as amended [16 U.S.C. 1801 *et seq.*].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archaeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archaeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act [25 U.S.C. 3001–3013].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act [7 U.S.C. 4201 –4209]; the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended [42 U.S.C. 61].

7. *Wetlands and Water Resources:* Clean Water Act, 33 U.S.C. 1251–1377 (Section 404, Section 401, Section 319); Coastal Zone Management Act [16 U.S.C. 1451–1465]; Land and Water Conservation Fund [16 U.S.C. 4601–4604]; Safe Drinking Water Act [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 [PL 99–499]; Resource Conservation and Recovery Act [42 U.S.C. 6901–6992(k)].

9. *Executive Orders:* EO. 11990 Protection of Wetlands; EO. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; EO. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred sites; E.O.13287 Preserve America; EO. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; EO. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Sharon Love,

Environmental Program Manager, Olympia, Washington.

[FR Doc. E9–5806 Filed 3–17–09; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–28055]

Demonstration Project on NAFTA Trucking Provisions

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of termination of demonstration project.

SUMMARY: The FMCSA announces termination of the demonstration project that allowed up to 100 Mexico-domiciled motor carriers to operate beyond the U.S. border commercial zones, and the same number of U.S. carriers to operate in Mexico. Section 136 of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2009, of the Omnibus Appropriations Act, 2009, prohibits FMCSA from using appropriated funds to continue the demonstration project.

DATES: *Effective Date:* This notice is effective March 11, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Dom Spataro, Division Chief, Telephone (202) 366–2995; e-mail *dominick.spataro@dot.gov*, or Mr. Marcelo Perez, Transportation Specialist, Telephone 512–916–5440 extension 228, e-mail *marcelo.perez@dot.gov* of the North American Borders Division, FMCSA, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Former Secretary of Transportation Mary E. Peters and Mexico's Secretary of Communications and Transportation Luis Téllez Kuenzler announced a demonstration project to implement certain trucking provisions of the North American Free Trade Agreement (NAFTA) in February 2007. The demonstration project was initiated on September 6, 2007, after the Department of Transportation (DOT) complied with a number of conditions imposed by section 6901 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Act, 2007, Public Law 110–28, 121 Stat. 112, 183, May 25, 2007. Further details regarding DOT's compliance with these conditions may be found in **Federal Register** notices published on June 8 and August 17, 2007 (72 FR 31877 and 72 FR 46263, respectively). The demonstration project was initially expected to last one year (see 72 FR 23883, May 1, 2007). On August 6, 2008, FMCSA announced that the demonstration project was being extended from one year to the full three years allowed by statute (73 FR 45796).

On March 11, 2009, the President signed into law the Omnibus Appropriations Act, 2009, Public Law 111–8, division I, title I, 123 Stat. 524. Section 136 of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2009 (Division I, title I of the Omnibus Appropriations Act, 2009) provides: ''[N]one of the funds appropriated or otherwise made available under this Act may be used, directly or indirectly, to establish, implement, continue, promote, or in any way permit a cross-border motor carrier demonstration program to allow Mexican-domiciled motor carriers to operate beyond the commercial zones along the international border between the United States and Mexico, including continuing, in whole or in part, any such program that was initiated prior to the date of the enactment of this Act.''

In accordance with section 136, FMCSA has terminated the cross-border demonstration project that began on September 6, 2007. The Agency has ceased processing applications by prospective project participants and has taken other necessary steps to comply with the provision. Further, as a condition of participating in this project, Mexico-domiciled motor carriers were required to submit to FMCSA Form OCE–46 (Request for Revocation of Registration). This form requests that any registration issued by FMCSA pursuant to the cross-border demonstration project be revoked upon termination of the project. The Agency has processed these forms and revoked all registrations issued in connection with the cross-border demonstration project.

Issued on: March 13, 2009.

Rose A. McMurray,

Acting Deputy Administrator.

[FR Doc. E9–5956 Filed 3–17–09; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Petition for Approval; Railroad Safety Program Plan

Although not required, the Federal Railroad Administration (FRA) is providing notice that it has received a petition for approval of a Railroad Safety Program Plan (RSPP) submitted pursuant to Title 49 Code of Federal Regulations CFR 236.905, of subpart H. The petition is described below, including the party seeking approval and the requisite docket number where the petition and any related information may be found. This document is available for public inspection, however, FRA is not accepting public comment on the document as this notice is provided for information only.

Marquette Rail, LLC (Docket Number FRA–2009–0017)

Marquette Rail, LLC submitted a petition for approval of an RSPP. The petition, the RSPP, and any related documents have been placed in the requisite docket and are available for public inspection.

All documents in the public docket are available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

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).

Issued in Washington, DC, on March 12, 2009.

Grady C. Cothen, Jr.

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E9–5840 Filed 3–17–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009 0024]

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 Enchanted Lady.

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–2009–0024 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 April 17, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0024. 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 Enchanted Lady is:

Intended Use: ''6 pack sailboat charters.''

Geographic Region: ''California.''

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: March 10, 2009.

By Order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E9–5782 Filed 3–17–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009 0023]

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 Tardis.

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–2009–0023 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 April 17, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0023. 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 Tardis is:

Intended Use: ''Coastwise passenger charters.''

Geographic Region: ''ME, NH, MA, RI, NY, FL.''

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: March 9, 2009.

By Order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E9–5789 Filed 3–17–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009 0020]

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 Wet Dreams.

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–2009–0020 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 April 17, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0020. 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 Wet Dreams is:

Intended Use: ''Sportfishing/coastwise endorsement.''

Geographic Region: ''New Jersey.''

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: March 10, 2009.

By order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E9–5784 Filed 3–17–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009–0021]

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 KAMAIIANA.

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–2009–0021 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 April 17, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0021. 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 KAMAIIANA is:

Intended Use: ''Sightseeing harbor cruises for 6 passengers of our limo company.''

Geographic Region: ''California''.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: March 10, 2009.

By Order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E9–5788 Filed 3–17–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Consolidated Rail Corporation—Abandonment Exemption—in Hudson County, NJ [STB Docket No. AB–167 (Sub-No. 1189X)]; CSX Transportation, Inc.—Discontinuance of Service Exemption—in Hudson County, NJ [STB Docket No. AB–55 (Sub-No. 686X)]; Norfolk Southern Railway Company—Discontinuance of Service Exemption—in Hudson County, NJ; [STB Docket No. AB–290 (Sub-No. 306X)]

Consolidated Rail Corporation (Conrail), CSX Transportation, Inc. (CSXT), and Norfolk Southern Railway Company (NS) (collectively, applicants) have jointly filed a verified notice of exemption under 49 CFR part 1152 Subpart F–*Exempt Abandonments and Discontinuances of Service* [1] for Conrail to abandon, and for CSXT and NS to discontinue service over, an approximately 1.36-mile portion of a line of railroad known as the Harsimus Branch, between milepost 0.00, CP Waldo, and milepost 1.36, a point east of Washington Street, in Jersey City, Hudson County, NJ.[2] The line traverses United States Postal Service Zip Codes 07302, 07306, and 07310.

Applicants have certified that: (1) No local or overhead traffic has moved over the property for at least 2 years; (2) any overhead traffic that has moved or could move over the property can be rerouted; (3) no formal complaint filed by a user of rail service on the property (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the property either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuances shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on April 17, 2009, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[4] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by March 30, 2009. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 7, 2009, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicants' representatives: John K. Enright, 1717 Arch Street, 32nd Floor, Philadelphia, PA 19103, and Robert M. Jenkins III, Mayer Brown LLP, 1909 K Street, NW., Washington, DC 20006.

If the verified notice contains false or misleading information, the exemptions are void *ab initio.*

Applicants have filed a joint combined environmental and historic report, which addresses the effects, if any, of the abandonment and discontinuances on the environment

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[1] On January 6, 2009, applicants previously filed a notice of exemption to abandon the same line of railroad. However, in a decision served on January 26, 2009, the notice was rejected without prejudice to refilling. The decision stated that applicants did not meet the prefiling notice requirements at 49 CFR 1105.7(b) and 1105.8(c).

[2] In *City of Jersey City, Rails to Trails Conservancy, Pennsylvania Railroad Harsimus Stem Embankment Preservation Coalition, and New Jersey State Assemblyman Louis M. Manzo-Petition for Declaratory Order,* STB Finance Docket No. 34818 (STB served August 9, 2007), the Board described the line as follows: Extending between milepost 1.3 near Luis Munoz Marin Boulevard (formerly Henderson Avenue) and milepost 2.54 near Waldo Avenue, in Jersey City, NJ.

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the abandonment exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] Each OFA must be accompanied by the filing fee, which is currently set at $1,500. *See* 49 CFR 1002.2(f)(25).

and historic resources.[5] SEA will issue an environmental assessment (EA) by March 23, 2009. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), Conrail shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by Conrail's filing of a notice of consummation by March 18, 2010, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at ''*http://www.stb.dot.gov.*''

Decided: March 11, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. E9–5612 Filed 3–17–09; 8:45 am]

BILLING CODE 4915–01–P

[5] On March 12, 2008, Conrail originally filed an Environmental and Historic Report with the Board. In response to the comments generated by that report, applicants have filed a Supplemental Environmental and Historic Report.

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Proposed Collection; Comment Request; Currency Transaction Report by Casinos

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites comment on a proposed extension, without change, of an existing information collection requirement contained in the form, ''Currency Transaction Report by Casinos, FinCEN Form 103.'' This request for comments is being made pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

DATES: Written comments are welcome and must be received on or before May 18, 2009.

ADDRESSES: Written comments should be submitted to: Regulatory Policy and Programs Division, Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, Virginia 22183, Attention: Paperwork Reduction Act Comments—Currency Transaction Report by Casinos Form. Comments also may be submitted by electronic mail to the following Internet address: *regcomments@fincen.gov*, again with a caption, in the body of the text, ''Attention: Paperwork Reduction Act Comments—Currency Transaction Report by Casinos Form.''

Inspection of comments. Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905–5034 (Not a toll free call).

FOR FURTHER INFORMATION CONTACT: Regulatory Policy and Programs Division at (800) 949–2732. Option 4

SUPPLEMENTARY INFORMATION:

Title: Currency Transaction Report by Casinos.

OMB Number: 1506–0005.

Form Number: FinCEN Form 103.

Abstract: The statute generally referred to as the ''Bank Secrecy Act,'' Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5332, authorizes the Secretary of the Treasury, *inter alia*, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.[1] Regulations implementing Title II of the Bank Secrecy Act appear at 31 CFR part 103. The authority of the Secretary of the Treasury to administer the Bank Secrecy Act has been delegated to the Director of the Financial Crimes Enforcement Network.

Section 5313(a) authorizes the Secretary of the Treasury to issue regulations that require a report when ''a domestic financial institution is involved in a transaction for the payment, receipt, or transfer of United States [sic] coins or currency (or other monetary instruments the Secretary of the Treasury prescribes), in an amount, denomination, or amount and denomination, or under circumstances the Secretary prescribes.'' Regulations implementing section 5313(a) are found at 31 CFR 103.22. In general, the regulations require the reporting of transactions in currency in excess of $10,000 a day. Casinos, as defined in 31 U.S.C. 5312(a)(2)(X) and 31 CFR 103.11(n)(7)(i), are financial institutions subject to the currency transaction reporting requirement. Card clubs, as defined in 31 CFR 103.11(n)(8)(i), are casinos subject to currency transaction reporting. (See 63 FR 1919, January 13, 1998.) The Currency Transaction Report by Casinos, FinCEN Form 103, is the form casinos and card clubs use to comply with the currency transaction reporting requirements.

The current CTR–C may be reviewed at: *http://www.fincen.gov/forms/files/fin103_ctrc.pdf.*

Type of Review: Extension, without change, of an approved information collection.

Affected Public: Business or other for-profit institutions.

Frequency: As required.

Estimated Burden: Reporting average of 20 minutes per response.[2] Form record keeping average of 10 minutes per response, for a total of 30 minutes.

Estimated Number of Respondents: 925.

Estimated Total Annual Responses: 460,000.

Estimated Total Annual Burden Hours: 230,000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid Office of Management and Budget control number. Records required to be retained under the Bank Secrecy Act must be retained for five years.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of

[1] Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107–56.

[2] This burden relates to the completion of the Currency Transaction Report by Casinos form only. The recordkeeping burden of 31 CFR 103.22 is reflected in the final rule requiring casinos and card clubs to file currency transaction reports.

the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: March 11, 2009.

James H. Freis, Jr.,

Director, Financial Crimes Enforcement Network.

[FR Doc. E9–5786 Filed 3–17–09; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8926

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8926, Disqualified Corporate Interest Expense Disallowed Under Section 163(j) and Related Information.

DATES: Written comments should be received on or before May 18, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Disqualified Corporate Interest Expense Disallowed Under Section 163(j) and Related Information.

OMB Number: 1545–2127.

Form Number: Form 8926.

Abstract: Pursuant to a Congressional directive to determine whether the earnings stripping limitation rule of Code section 163(j) was effective in curbing the erosion of the U.S. tax base, CC:INTL, LMSB, and the Treasury sought to create Form 8926, Disqualified Corporate Interest Expense Disallowed Under Section 163(j) and Related Information.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 500,000.

Estimated Time per Respondent: 15 hours 12 minutes.

Estimated Total Annual Burden Hours: 7,560,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 3, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–5883 Filed 3–17–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 5310 and 6088

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5310, Application for Determination for Terminating Plan, and Form 6088, Distributable Benefits from Employee Pension Benefit Plans.

DATES: Written comments should be received on or before May 18, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to R. Joseph Durbala, at (202) 622–3634, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Form 5310, Application for Determination for Terminating Plan, and Form 6088, Distributable Benefits from Employee Pension Benefit Plans.

OMB Number: 1545–0202.

Form Number: Forms 5310 and 6088.

Abstract: Employers who have qualified deferred compensation plans can take an income tax deduction for contributions to their plans. Form 5310 is used to request an IRS determination letter about the plan's qualification status (qualified or non-qualified) under Internal Revenue Code section 401(a). Form 6088 is used to show the amounts of distributable benefits to participants in the plan.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 30,000.

Estimated Time per Response: 60 hours, 46 minutes.

Estimated Total Annual Burden Hours: 1,813,650.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 23, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–5887 Filed 3–17–09; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Wednesday,
March 18, 2009

Part II

The President

Proclamation 8352—National Poison Prevention Week, 2009

Federal Register
Vol. 74, No. 51
Wednesday, March 18, 2009

Presidential Documents

Title 3—

The President

Proclamation 8352 of March 13, 2009

National Poison Prevention Week, 2009

By the President of the United States of America

A Proclamation

Since 1962, National Poison Prevention Week has helped raise awareness about the dangers of potentially poisonous substances and has provided the opportunity to educate fellow Americans about preventing and responding to poisonings. This education effort is critical to the well-being of children and adults alike, as both remain susceptible to poison exposure.

According to the American Association of Poison Control Centers (AAPCC), more than two million potential poison exposures are reported to the Nation's 61 poison control centers every year. More than half of those exposures involve children aged five and under. The AAPCC also reports that more than one thousand deaths due to poisoning take place in the United States every year.

Poisoning most frequently involves medicines and typical household chemicals, including cleaning supplies and personal care products. When improperly stored, these substances can present threats to the health and well-being of people subject to exposure. Taking simple steps can protect family and friends from harm. For example, keeping poisonous materials in their original containers, placing these materials out of children's reach, following handling instructions and recommended dosages, and installing carbon monoxide detectors can all help save lives. More information can be found at www.aapcc.org. In the event of a potential poisoning, experts at local poison control centers can be reached at 1–800–222–1222. As children and adults suffer from poison exposures, all Americans should take seriously this grave health risk.

To encourage Americans to learn more about the dangers of accidental poisonings and to take appropriate preventive measures, the Congress, by joint resolution approved September 26, 1961, as amended (75 Stat. 681), has authorized and requested the President to issue a proclamation designating the third week of March each year as ''National Poison Prevention Week.'' I encourage all Americans to familiarize themselves with this issue and take steps to protect their families.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim March 15 through March 21, 2009, as National Poison Prevention Week.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of March, in the year of our Lord two thousand nine, and of the Independence of the United States of America the two hundred and thirty-third.

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