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Title 3—

The President

Proclamation 8410 of September 3, 2009

National Days of Prayer And Remembrance, 2009

By the President of the United States of America

A Proclamation

They were daughters and sons, sisters and brothers, mothers and fathers, spouses and partners, family and friends, colleagues and strangers. They hailed from cities and towns across our Nation and world. On September 11, 2001, thousands of innocent women and men were taken from us, and their loss leaves an emptiness in our hearts.

Hundreds perished as planes struck the skyline of New York City, the structure of the Pentagon, and the grass of Pennsylvania. In the immediate aftermath of these tragedies, many victims died as they sought safety. Selflessly placing themselves in danger, first responders, members of the Armed Forces, and private citizens made the ultimate sacrifice working to assist others. During the National Days of Prayer and Remembrance, Americans across the country cherish the memory of all those who passed and honor and pray for their families and friends.

Americans also remember and pray for the safety and success of the members of the United States Armed Forces, who work every day to keep our Nation safe from terrorism and other threats to our security. Military members assisted those in need on September 11, 2001, and serve now in Iraq, Afghanistan, and around the world. They have left the safety of home so that our Nation might be more secure. They have endured great sacrifice so that we might enjoy the blessings of liberty. Our servicemembers represent the best of America, and they deserve our deepest respect and gratitude.

The threat of terrorism has denied too many men, women, and children their right to live in peace and security. As the United States works to defeat terrorists and build a more hopeful future for our children and young people across the world, we seek humility and strength. We reflect upon the lessons drawn from our national tragedy, seek God's guidance and wisdom, and, never forgetting the lost, commit to working in common cause with our friends and allies to create a safer and brighter world for current and future generations.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Friday, September 4, through Sunday, September 6, as National Days of Prayer and Remembrance. I ask that the people of the United States, each in their own way, honor the victims of September 11, 2001, and their families through prayer, memorial services, the ringing of bells, and evening candlelight remembrance vigils. I invite the people of the world to share in this solemn commemoration.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of September, in the year of our Lord two thousand nine, and of the Independence of the United States of America the two hundred and thirty-fourth.

[FR Doc. E9–21852
Filed 9–8–09; 8:45 am]
Billing code 3195–W9–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

Agricultural Marketing Service

7 CFR Part 905

[Doc. No. AO–85–A10; AMS–FV–07–0132; FV08–905–1]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Order Amending Marketing Order No. 905

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida. The amendments were proposed by the Citrus Administrative Committee (committee), which is responsible for local administration of the order. The amendments will modify committee representation by cooperative entities; allow substitute alternates to temporarily represent absent members at committee meetings; authorize the committee to conduct meetings by telephone or other means of communication; and authorize the committee to conduct research and promotion programs, including paid advertising, for fresh Florida citrus. The amendments are intended to improve the operation and administration of the order and provide the industry with additional tools for the marketing of fresh citrus.

DATES: This rule is effective October 9, 2009.

FOR FURTHER INFORMATION CONTACT: Melissa Schmaedick, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW. Third Avenue, Room 385, Portland, OR 97204; Telephone: (503) 326–2724, Fax: (503) 326–7440, or E-mail: *Melissa.Schmaedick@ams.usda.gov*; or Laurel May, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Laurel.May@ams.usda.gov*.

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

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued on January 24, 2008, and published in the January 29, 2008, issue of the **Federal Register** (73 FR 5130); a Recommended Decision issued on December 19, 2008, and published in the December 24, 2008, issue of the **Federal Register** (73 FR 79028); and a Secretary's Decision and Referendum Order issued on April 6, 2009, and published in the April 13, 2009, issue of the **Federal Register** (74 FR 16798).

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

Preliminary Statement

This final rule was formulated on the record of a public hearing held on February 12, 2008, in Winter Haven, Florida. Notice of this hearing was issued on January 24, 2008, and published in the January 29, 2008, issue of the **Federal Register** (73 FR 5130). The hearing was held to consider the proposed amendment of Marketing Order No. 905, hereinafter referred to as the ''order''.

The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act,'' and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

The Notice of Hearing contained four amendment proposals submitted by committee. Upon the basis of evidence introduced at the hearing and the record thereof, the Administrator of AMS on December 19, 2008, filed with the Hearing Clerk, U.S. Department of Agriculture, a Recommended Decision and Opportunity to File Written Exceptions thereto by January 23, 2009. No exceptions were filed.

A Secretary's Decision and Referendum Order was issued on April 6, 2009, directing that a referendum be conducted during the period May 4 through May 18, 2009, among growers of fresh oranges, grapefruit, tangerines, and tangelos to determine whether they favored the proposed amendments to the order. To become effective, the amendments had to be approved by at least two-thirds of those producers voting or by voters representing at least two-thirds of the volume of citrus represented by voters in the referendum. Three of the proposed amendments were favored by 95 percent of the voters, representing 99 percent of the volume. One amendment was favored by 88 percent of voters, who represented 49 percent of the volume.

The amendments approved by voters and included in this order will:

1. Modify committee representation by cooperative committees;

2. Allow substitute alternates to temporarily represent absent members at committee meetings;

3. Authorize the committee to conduct meetings by telephone or other means of communication; and

4. Add authority for research and promotion programs, including paid advertising, for fresh Florida citrus.

The Agricultural Marketing Service (AMS) also proposed to make such changes to the order as might be necessary to ensure that all of the order's provisions conform to the effectuated amendments. AMS proposed replacing the word ''he'' in the second sentence of § 905.22(a)(2) with the words ''he or she'' to conform to other proposed changes to § 905.22.

An amended marketing agreement was subsequently provided to all fresh orange, grapefruit, tangerine, and tangelo handlers in the production area for their approval. The marketing agreement was not approved by handlers representing at least 50 percent of the volume of fresh oranges, grapefruit, tangerines, and tangelos handled by all handlers during the representative period of August 1, 2007 through July 31, 2008.

Small Business Considerations

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA)

(5 U.S.C. 601–612), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions so that small businesses will not be unduly or disproportionately burdened. Marketing orders and amendments thereto are unique in that they are normally brought about through group action of essentially small entities for their own benefit.

Small agricultural service firms, which include handlers regulated under the order, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $7,000,000. Small agricultural producers have been defined as those with annual receipts of less than $750,000.

There are approximately 48 handlers of fresh citrus subject to regulation under the order and approximately 7,700 producers of fresh citrus in the regulated area. Information provided at the hearing indicates that over 90 percent of the handlers would be considered small agricultural service firms. Hearing testimony also suggests that the majority of producers would also be considered small entities according to the SBA's definition.

The order regulates the handling of fresh citrus grown in the state of Florida. Total bearing citrus acreage has declined from a peak of approximately 800,000 acres in 1996–97 to about 550,000 acres in 2006–07, largely due to hurricane damage and the removal of diseased citrus trees. Approximately 7.236 million tons of citrus were produced in Florida during the 2006–07 season—a decline of approximately 6 million tons compared to the 1996–97 season. According to evidence provided at the hearing, approximately 10 percent of Florida citrus is used in the fresh market, while the remainder is used in the production of processed juice products. Generally, 40 percent of Florida's fresh citrus is shipped to export markets, including the Pacific Rim countries, Europe, and Canada.

Under the order, outgoing quality regulations are established for fresh citrus shipments, and statistical information is collected. Program activities administered by the committee are designed to support large and small citrus producers and handlers. The 18-member committee is comprised of both producer and handler representatives from the production area, as well as a public member. Committee meetings where regulatory recommendations and other decisions are made are open to the public. All members are able to participate in committee deliberations, and each committee member has an equal vote. Others in attendance at meetings are also allowed to express their views.

After discussions within the citrus industry, the committee considered developing its own research and marketing promotion programs focusing on fresh Florida citrus. An amendment study subcommittee was formed to explore this idea and other possible order revisions. The subcommittee developed a list of proposed amendments to the order, which was then presented to the committee and shared with other industry organizations. The proposed amendments were also posted on the committee's Web site for review by the Florida citrus industry at large.

The committee met to review and discuss the subcommittee's proposals at its meeting on May 29, 2007. At that time, the committee voted unanimously to support the four proposed amendments that were forwarded to AMS.

In addition, the hearing to receive evidence on the proposed changes was open to the public and all interested parties were invited and encouraged to participate and provide their views.

The amendments are intended to provide the committee and the industry with additional flexibility in administering the order and producing and marketing fresh Florida citrus. Record evidence indicates that the amendments are intended to benefit all producers and handlers under the order, regardless of size. All producer and handler witnesses supported the amendments at the hearing. Some witnesses commented on the implications of implementing specific marketing, research, and development programs. In that context, witnesses stated that they expected the benefits to producers and handlers to outweigh any potential costs.

The amendment reducing the required number of cooperative producer and cooperative handler seats on the committee from three each to two each will have no economic impact on producers or handlers of any size. The number of cooperative entities in the industry has diminished considerably since the order's promulgation. Reducing the number of cooperative seats on the committee at this time will reflect the current composition of the industry. The reduction will help ensure that the interests of all large and small producers and handlers, whether independent or members of cooperatives, are represented appropriately during committee deliberations.

Allowing substitute alternates to represent absent members at committee meetings, will have no adverse economic impact on producers or handlers of any size. Members who are unable to attend committee meetings will be allowed to designate available alternates to represent them if their own alternates are also unavailable in order to achieve a quorum. If members are unable to designate substitute alternates, the committee can designate substitutes at the meeting, if necessary to secure a quorum. Substitute alternates will be required to represent the same group affiliation (producer or handler) as the absent members and alternates. The amendment will allow alternates not otherwise representing absent members to represent other members at committee meetings in order to secure a quorum. This will help ensure that quorum requirements are met and that committee business is addressed in a timely manner.

Adding authority to conduct committee meetings by telephone or other means of communication is expected to benefit producers and handlers of all sizes by improving committee efficiencies and encouraging greater participation in industry deliberations. It is not expected to result in any significant increased costs to producers or handlers. Using modern communication technology will allow the committee to respond more quickly to urgent industry needs and will provide greater access to meetings by members and other industry participants. Greater meeting flexibility will make it easier for the committee to hold additional meetings where there is a need for lengthier discussion and consensus building. These changes are consistent with current practices in other citrus industry settings.

Adding authority to establish research and promotion programs will enable the committee to address the specific needs of the Florida fresh citrus industry by recommending, conducting, and funding research projects and promotional programs, including paid advertising, that focus on the production, handling, and marketing of fresh citrus.

Hearing witnesses testified that the committee's assessment rate could increase to cover the costs of any newly authorized research and promotion projects, but that there may be an offset by decreases in payments by the industry to fund projects through other entities. Any increased assessment costs would be based on the volume of fresh

citrus shipped by each handler and would, therefore, be applied proportionately to all handlers.

The benefits expected to accrue to producers and handlers following implementation of this amendment should outweigh the costs. Witnesses advocated the establishment of production research programs that would assist with the development of new varieties and post-harvest handling methods to improve the marketability of fresh Florida citrus. Marketing programs specific to fresh citrus are expected to increase consumer demand and sales, which should in turn increase returns to producers and handlers. Improved production and marketing strategies developed under the authorized programs are expected to outweigh any additional costs to the Florida fresh citrus industry. In addition, any increased costs would be proportional to a handler's size and would not unduly or disproportionately impact small entities. Witness support for this amendment was unanimous at the hearing.

Interested persons were invited to present evidence at the hearing on the probable regulatory and informational impact of the proposed amendments to the order on small entities. The record evidence is that implementation of the amendments will have little or no impact on producers and handlers.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule. These amendments are intended to improve the operation and administration of the order and to assist in the marketing of fresh Florida citrus.

Paperwork Reduction Act

Information collection requirements for Part 905 are currently approved by the Office of Management and Budget (OMB), under OMB Number 0581–0189—''Generic OMB Fruit Crops.'' No changes in these requirements are anticipated as a result of these amendments. Should any such changes become necessary, they will be submitted to OMB for approval.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the Government Paperwork Elimination Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

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

Civil Justice Reform

The amendments to Marketing Order 905 as stated herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed no later than 20 days after the date of the entry of the ruling.

Order Amending the Order Regulating the Handling of Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida

Findings and Determinations

The findings and determinations set forth hereinafter are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the order; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings and Determinations Upon the Basis of the Hearing Record.*

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) and the applicable rules of practice and procedure effective thereunder (7 CFR part 900), a public hearing was held upon the proposed amendments to Marketing Order No. 905 (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida.

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

(1) The marketing order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The marketing order, as amended, and as hereby further amended, regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in the marketing order upon which hearings have been held;

(3) The marketing order, as amended, and as hereby further amended, is limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivision of the production area would not effectively carry out the declared policy of the Act;

(4) The marketing order, as amended, and as hereby further amended, prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of oranges, grapefruit, tangerines, and tangelos grown in the production area; and

(5) All handling of oranges, grapefruit, tangerines, and tangelos grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Determinations.* It is hereby determined that:

(1) Handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping oranges, grapefruit, tangerines, and tangelos covered by the order as hereby amended) who, during the period August 1, 2007 through July 31, 2008, handled 50 percent or more of the volume of such oranges, grapefruit, tangerines, and tangelos covered by said order, as hereby amended, have not signed an amended marketing agreement; and,

(2) The issuance of this amendatory order, further amending the aforesaid order, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of approval and who, during the period of August 1, 2007 through July 31, 2008 (which has been deemed to be a representative period), have been engaged within the production area in the production of such oranges, grapefruit, tangerines, and tangelos; and

(3) In the absence of a signed marketing agreement, the issuance of this amendatory order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers of oranges, grapefruit, tangerines, and tangelos in the production area.

Order Relative to Handling of Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida

It is therefore ordered, That on and after the effective date hereof, all handling of oranges, grapefruit, tangerines, and tangelos grown in Florida shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby amended as follows:

The provisions of the proposed order further amending the order contained in the Secretary's Decision issued by the Administrator on April 6, 2009, and published in the **Federal Register** on April 13, 2009 (74 FR 16798), shall be and are the terms and provisions of this order amending the order and set forth in full herein.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

■ For the reasons set forth in the preamble, Title 7, Chapter IX of the Code of Federal Regulations is amended by amending part 905 to read as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

■ 1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Amend § 905.22 by revising paragraphs (a)(2) and (b)(2) to read as follows:

§ 905.22 Nominations.

(a) * * *

(2) Each nominee shall be a producer in the district from which he or she is nominated. In voting for nominees, each producer shall be entitled to cast one vote for each nominee in each of the districts in which he or she is a producer. At least two of the nominees and their alternates so nominated shall be affiliated with a bona fide cooperative marketing organization.

(b) * * *

(2) Nomination of at least two members and their alternates shall be made by bona fide cooperative marketing organizations which are handlers. Nominations for not more than six members and their alternates shall be made by handlers who are not so affiliated. In voting for nominees, each handler or his or her authorized representative shall be entitled to cast one vote, which shall be weighted by the volume of fruit by such handler during the then current fiscal period.

■ 3. Revise § 905.23 to read as follows:

§ 905.23 Selection.

(a) From the nominations made pursuant to § 905.22(a) or from other qualified persons, the Secretary shall select one member and one alternate member to represent District 2 and two members and two alternate members each to represent Districts 1, 3, 4, and 5 or such other number of members and alternate members from each district as may be prescribed pursuant to § 905.14. At least two such members and their alternates shall be affiliated with bona fide cooperative marketing organizations.

(b) From the nominations made pursuant to § 905.22(b) or from other qualified persons, the Secretary shall select at least two members and their alternates to represent bona fide cooperative marketing organizations which are handlers, and the remaining members and their alternates to represent handlers who are not so affiliated.

■ 4. In § 905.29, redesignate paragraph (b) as paragraph (c), and add a new paragraph (b) to read as follows:

§ 905.29 Inability of members to serve.

* * * * *

(b) If both a member and his or her respective alternate are unable to attend a committee meeting, such member may designate another alternate to act in his or her place in order to obtain a quorum: *Provided*, That such alternate member represents the same group affiliation as the absent member. If the member is unable to designate such an alternate, the committee members present may designate such alternate.

* * * * *

■ 5. Revise paragraph (c) of § 905.34 to read as follows:

§ 905.34 Procedure of committees.

* * * * *

(c) The committee may provide for meeting by telephone, telegraph, or other means of communication, and any vote cast at such a meeting shall be promptly confirmed in writing: *Provided*, That if any assembled meeting is held, all votes shall be cast in person.

* * * * *

■ 6. Add a new § 905.54 to read as follows:

§ 905.54 Marketing, research and development.

The committee may, with the approval of the Secretary, establish, or provide for the establishment of, projects including production research, marketing research and development projects, and marketing promotion including paid advertising, designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of fruit. The expenses of such projects shall be paid by funds collected pursuant to § 905.41. Upon conclusion of each project, but at least annually, the committee shall summarize the program status and accomplishments to its members and the Secretary. A similar report to the committee shall be required of any contracting party on any project carried out under this section. Also, for each project, the contracting party shall be required to maintain records of money received and expenditures, and such shall be available to the committee and the Secretary.

Dated: September 2, 2009.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. E9–21656 Filed 9–8–09; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Doc. No. AMS–FV–08–0017; FV08–920–2 FR]

Kiwifruit Grown in California; Change in Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule changes the reporting requirements currently prescribed under the marketing order that regulates the handling of kiwifruit grown in California. The order is administered locally by the Kiwifruit Administrative Committee (Committee). This rule requires handlers who ship 100,000 or more trays per season to file weekly shipment and price information with the Committee. Shipments of organic kiwifruit are exempt from this requirement. The Committee will use this information to prepare its marketing policy statements and annual reports and to provide timely information to the industry to assist them in making

marketing decisions throughout the season.

DATES: *Effective Date:* September 10, 2009.

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

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

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 920 as amended (7 CFR part 920), regulating the handling of kiwifruit grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

This final rule adds a new reporting requirement and form to those currently specified in the order's administrative rules and regulations. This change will allow the Committee to collect weekly shipment and price information from kiwifruit handlers who ship 100,000 or more trays per season. Under this regulation, handlers will not be required to provide weekly shipment and price information on shipments of organic kiwifruit. The information collected will be used by the Committee to prepare its marketing policy statement as required under the order. The information will also be used to generate timely reports for the industry as a whole to use in making marketing decisions throughout the season. This rule was recommended by the Committee at its meetings on September 6, 2007; January 30, 2008; and April 22, 2008.

Section 920.34 of the order requires the Committee to prepare an annual report for presentation to the Secretary and the industry. The annual report provides a cumulative review of industry statistics as well as information about program activities and expenditures. Section 920.50 of the order requires the Committee to prepare an annual marketing policy report for submission to the Secretary. The marketing policy describes expected kiwifruit production, quality, and marketing conditions. Along with other pertinent information, the marketing policy provides the basis for the recommendation of appropriate kiwifruit handling regulations for the upcoming season. Section 920.60 of the order authorizes the Committee to require handlers to file reports and provide other information as may be necessary for the Committee to perform these duties. The provisions of § 920.60(c) require that handlers maintain copies of all kiwifruit receipts and disposals for at least two succeeding fiscal years to verify their shipping reports.

The Committee's current reporting requirements are specified in § 920.160 of the order's administrative rules and regulations. This section includes requirements that handlers submit shipment reports and the Kiwifruit Inventory Shipping System (KISS) form, which consists of three reports: KISS/Add Inventory, KISS/Deduct Inventory, and KISS/Shipment.

Handlers who ship fewer than 10,000 trays per season are only required to file the shipment report twice per year and are not required to file the KISS form. Handlers who ship 10,000 trays or more per season are required to file the shipment report monthly and all three sections of the KISS form monthly or semi-monthly during certain months. The Committee provides forms to assist handlers with supplying the required information.

Kiwifruit shipments generally begin in September and continue through July. The Committee requires handlers who ship 10,000 trays or more to file their initial shipment reports by the fifth day of the month following the month in which their first shipments are made. This report is used to track shipments by type, weight, and destination.

The Committee has established November 5 as the deadline for filing the initial KISS reports. Subsequent reports are to be filed on the fifth day of each month throughout the season, with biweekly reports required for the months of December, January, and February. The KISS/Shipment report is used to report shipments by fruit size and pack type. The KISS/Add Inventory and KISS/Deduct Inventory reports are used to report changes in inventory.

This final rule revises § 920.160 by adding a new reporting requirement and form. Under the new regulation, handlers who ship 100,000 tray equivalents or more per season will be required to submit weekly shipment and price data on the new KISS Price/Shipment report form. The information collected on the KISS Price/Shipment report will include data on gross f.o.b. sales and the total number of containers shipped by pack, fruit size, grade, and market destination. Handlers submitting the KISS Price/Shipment report will no longer be required to submit the existing shipment report or KISS/Shipment report as that information will be collected on the new KISS Price/Shipment report. However, handlers submitting the KISS Price/Shipment report will still be responsible for filing the KISS/Add Inventory and KISS/Deduct Inventory reports.

The Committee recommended the 100,000 tray threshold because handlers shipping 100,000 trays or more account for approximately 90% of the production area's total shipments in a season. Committee members believe that information on such shipments will provide a sufficiently broad picture of ongoing marketing conditions. Information about the volume of kiwifruit in the current channels of commerce will be compiled by the Committee and reported to the industry. The Committee believes that such information provided throughout the season will benefit the industry as a whole when making marketing decisions.

While information from handlers with total shipments of fewer than 100,000 trays each season might not be significant on a weekly basis, such information will continue to be collected from those handlers on the other existing shipment and KISS

reports and will be used to generate the Committee's marketing policy statements and annual reports.

The previous reporting requirements made no provisions for collecting information on kiwifruit prices. The Committee believes that the industry as a whole will benefit from receiving gross f.o.b. sales information that will be collected by the Committee each week and used to generate timely industry reports. In the past, the Committee has used information from other sources to prepare their mandatory reports and provide updates to the industry, but Committee members feel that information from such sources no longer meets their needs. For example, one voluntary industry organization collects and reports weekly price information from participating handlers. Some industry members have found this information helpful in making marketing decisions in the past. However, Committee members report that the number of participating handlers has declined and that the information collected from the remaining participants may not provide as complete a picture of ongoing marketing conditions as the Committee would like. The Committee believes that compiling sales information from all large-volume kiwifruit handlers in the production area will be more reflective of—and will be of greater benefit to—the industry as a whole.

There can be significant differences in the price of kiwifruit throughout the season, including great fluctuations in prices from week to week. The Committee believes that having accurate and timely sales information will help to reduce these price fluctuations and promote orderly marketing, resulting in increased grower returns.

Under the change, handlers will not be required to report shipments of organically-produced (organic) kiwifruit on the new KISS Price/Shipment report. There are only a small number of handlers who handle organic kiwifruit, representing a small percentage of total shipments. Organic kiwifruit has its own unique marketing conditions with a pricing structure that differs from that of conventionally-produced (conventional) kiwifruit. Therefore, the Committee recommended that shipments of organic kiwifruit should be exempt from the new reporting requirements. However, organic kiwifruit shipments will continue to be reported as required on the appropriate existing Committee forms.

Kiwifruit handlers who ship between 10,000 and 100,000 trays or tray equivalents will continue to report by submitting monthly shipping reports and the existing KISS forms, including the KISS/Shipment reports. The reporting requirements for handlers shipping fewer than 10,000 tray equivalents will also remain the same. Also, the reporting exemption for minimum quantities of kiwifruit handled under certain conditions specified in § 920.110(b) will remain unchanged.

For the new KISS Price/Shipment report, the shipping week will be defined as Sunday through Saturday. Reports for each shipping week will be due no later than 5:00 p.m. (the close of business) on Tuesday of the following week to insure timely processing of current shipment and price information. Handlers will begin reporting following the first week of the season in which they have shipments. In weeks when no shipments are made, each handler will still be required to file a report indicating that no shipments were made during the reporting period. This will continue until the handler files a final report for the season. The new reporting form will have a space for handlers to indicate when they are filing their final reports of the season. The price data and shipping information received from all affected handlers will be compiled by the Committee and presented to the industry throughout the season in the form of general reports. At the end of each year, the information collected will be summarized and used to prepare the Committee's annual reports and marketing policy statements.

This rule also makes a correction to § 920.160(b). A final rule published in the **Federal Register** on December 10, 1996 [61 FR 64959], made changes to § 920.160(b) and inadvertently removed part of the section. Specifically, the last sentence of § 920.160(b), which specifies the frequency with which the KISS reports shall be filed as well as what information shall be included, was removed. This rule restores the language that was inadvertently removed.

Section 8e of the Act provides that when certain domestically produced commodities, including kiwifruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. This rule only changes the reporting requirements under the domestic handling regulations. No changes to the import regulations will be made.

Final Regulatory Flexibility Analysis

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

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

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

Based on Committee data, there are approximately 30 handlers of kiwifruit subject to regulation under the marketing order and approximately 220 kiwifruit growers in the production area. According to information provided by the Committee, approximately three handlers handle only organic kiwifruit, and four handle both conventional and organic kiwifruit.

The National Agricultural Statistical Service (NASS) reported total California kiwifruit production for the 2008–09 season at 23,000 tons with an average price of $888 per ton. Based on the average price and shipment information provided by the NASS and the Committee, it could be concluded that the majority of kiwifruit handlers would be considered small businesses under the SBA definition. In addition, based on kiwifruit production and price information, as well as the total number of California kiwifruit growers, the average annual grower revenue is less than $750,000. Thus, the majority of California kiwifruit producers may also be classified as small entities.

This final rule changes the reporting requirements currently prescribed under the order. This rule adds a new reporting requirement and form to the reporting requirements, which will allow the Committee to collect weekly shipment and price information from kiwifruit handlers who ship 100,000 or more trays per season. Handlers will not be required to report information on shipments of organic kiwifruit on this new form but will continue to report shipments of organic kiwifruit on existing Committee forms. This change will help the Committee develop its annual reports and marketing policy statements as required under the order and will enable the Committee to provide timely information to the industry as a whole to assist with

marketing decisions. This rule revises § 920.160, which specifies the reporting requirements. In addition to the new shipping and price information collection, this rule restores a portion of § 920.160(b) that was inadvertently removed from the regulation during a previous rulemaking action. Authority for the collection of shipment and other information is provided in § 920.60 of the order.

Requiring shipment and price reports on a weekly basis will impose an additional reporting burden on handlers who handle 100,000 or more tray equivalents of kiwifruit. However, this data is already being recorded and maintained by most handlers as a routine part of their business. Consequently, any additional costs associated with this change are expected to be minimal. Also, the benefits of having timely information regarding shipments and price are expected to outweigh any costs associated with the increase in reporting burden. While this change will impose an additional reporting burden on those handlers required to submit the KISS Price/Shipment report, those handlers will no longer be required to submit the shipment report or the KISS/Shipment report, which will offset somewhat the increase in burden. Further, the benefits of this rule are expected to be equally available to all industry members, regardless of their size.

The Committee discussed alternatives to this action, including making no changes to the reporting requirements. However, the Committee believes that collecting weekly shipment and price data will provide valuable information to the industry. The Committee also considered using weekly sales information collected by other entities. However, the Committee believes including the information collection under the order's rules and regulations will make the reports they generate more accurate and more reflective of the marketing conditions throughout the industry. Therefore, both alternatives were rejected.

This final rule establishes a new reporting requirement. This action also requires a new Committee form, the KISS Price/Shipment report. Therefore, this final rule will impose an additional reporting burden on handlers who handle 100,000 tray equivalents or more of kiwifruit. The new form has been submitted to the Office of Management and Budget (OMB) under OMB No. 0581–NEW. Upon approval of this new form by OMB, it will be merged with the forms currently approved for use under OMB No. 0581–0189, Generic OMB Fruit Crops.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

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

Further, the Committee's meetings were widely publicized throughout the kiwifruit industry and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the September 6, 2007; January 30, 2008; and April 22, 2008; meetings were public meetings and all entities, both large and small, were able to express views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on June 4, 2009 (74 FR 26806). A notice of the rule was published in the Committee's electronic newsletter that is distributed to all kiwifruit handlers. Also, the rule was made available through the Internet by USDA and the Office of the Federal Register. A 60-day comment period, ending August 3, 2009, was provided for interested persons to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses. No comments were received.

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

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

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the Committee requires time to prepare and mail handler report packets, which should include the new KISS Price/Shipment Report form, prior to the beginning of shipments for the 2009–10 crop year. In addition, handlers are aware of this rule, which was recommended at Committee meetings on September 6, 2007; January 30, 2008; and April 22, 2008. Also, a 60-day comment period was provided in the proposed rule.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 920 is amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 920 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 920.160 [Amended]

■ 2. § 920.160 is amended by revising the first sentence of paragraph (a), revising paragraph (b), and adding paragraphs (d) and (e) to read as follows:

§ 920.160 Reports.

(a) When requested by the Kiwifruit Administrative Committee, each shipper who ships kiwifruit, except as provided in paragraph (e) of this section, shall furnish a report of shipment and inventory data to the committee no later than the fifth day of the month following such shipment, or such other later time established by the committee: *Provided,* That each shipper who ships less than 10,000 trays, or the equivalent thereof, per fiscal year and has qualified with the committee shall furnish such report of shipment and inventory data to the committee twice per fiscal year.

* * *

(b) *Kiwifruit Inventory Shipping System (KISS) form.* Each handler, except such handlers that ship less than 10,000 trays, or the equivalent thereof, per season and have qualified with the committee, shall file with the committee the initial Kiwifruit Inventory Shipment System (KISS) form, which consists of three sections ''KISS/Add Inventory,'' ''KISS/Deduct Inventory,'' and ''KISS/Shipment,'' on or before November 5th, or such other later time as the committee may establish. Subsequent KISS forms, including all three sections, shall be filed with the committee by the fifth day and again by the twentieth day of each calendar month, or such other later time as the committee may establish, and will contain the following information:

(1) The beginning inventory of the handler by size and container type;

(2) The quantity of fruit the handler lost in repack and repacked into other container types;

(3) The total domestic and export shipments of the handler by size and container type; and

(4) Any other adjustments which increase or decrease posted handler inventory.

* * * * *

(d) *KISS Price/Shipment report.* Each handler who ships 100,000 or more trays, or the equivalent thereof, per season, shall file the KISS Price/Shipment report with the committee. Handlers are not required to report organic kiwifruit shipments on this report. The handler shall file the report weekly following the first week he or she makes shipments and shall continue filing reports until he or she submits a final report for the season. Each such report shall be filed with the committee no later than 5:00 p.m. (the close of business) on the Tuesday immediately following the shipping week. For the purpose of this subsection, the shipping week is defined as Sunday through Saturday. The report shall show:

(1) The company name, contact person, and phone number of the handler;

(2) Weekly period covered by the report;

(3) Total fresh market shipments and gross f.o.b. sales of kiwifruit by pack style and size; and

(4) Total fresh market shipments and gross f.o.b. sales to export markets by pack style and size.

(e) Handlers who file the KISS Price/Shipment report specified in paragraph (d) of this section are exempt from filing the shipping report specified in paragraph (a) of this section and the KISS/Shipment report specified in paragraph (b) of this section.

Dated: September 2, 2009.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. E9–21657 Filed 9–8–09; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Doc. No. AMS–FV–09–0048; FV09–993–1 IFR]

Dried Prunes Produced in California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule decreases the assessment rate established for the Prune Marketing Committee (Committee) for the 2009–10 and subsequent crop years from $0.30 to $0.16 per ton of salable dried prunes. The Committee locally administers the marketing order that regulates the handling of dried prunes in California. Assessments upon dried prune handlers are used by the Committee to fund reasonable and necessary expenses of the program. The crop year begins August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective September 10, 2009. Comments received by November 9, 2009, will be considered prior to issuance of a final rule.

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

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

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

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

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California dried prune handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable dried prunes beginning on August 1, 2009, and continue until amended, suspended, or terminated.

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

This rule decreases the assessment rate established for the Committee for the 2009–10 and subsequent crop years

from $0.30 to $0.16 per ton of salable dried prunes handled.

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

For the 2008–09 and subsequent crop years, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from crop year to crop year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on June 25, 2009, and unanimously recommended an assessment rate of $0.16 per ton of salable dried prunes and expenditures totaling $54,138 for the 2009–10 crop year. In comparison, last year's approved expenses were $65,600. The assessment rate of $0.16 per ton of salable dried prunes is $0.14 lower than the rate currently in effect.

The Committee recommended a lower assessment rate because the 2009–10 crop is estimated at 160,000 tons, which is over 34,000 tons larger than the 2008–09 crop. Income generated from the lower assessment rate combined with excess assessment income carried into the new crop year should be adequate to cover the Committee's 2009–10 expenses.

The Committee's budget of expenses of $54,138 includes a slight increase in personnel expenses and decreases in operating expenses and for contingencies. Most of the Committee's expenses reflect its portion of the joint administrative costs of the Committee and the California Dried Plum Board (CDPB). The Committee believes that extra assessment income carried in from the 2008 crop year, plus interest income and 2009 assessment income, is adequate to cover its estimated expenses of $54,138.

The major expenditures recommended by the Committee for the 2009–10 crop year include $26,450 for salaries and benefits, $11,780 for operating expenses, and $15,908 for contingencies. For the 2008–09 crop year, the Committee's budgeted expenses were $26,248 for salaries and benefits, $12,893 for operating expenses, and $26,459 for contingencies.

The assessment rate recommended by the Committee was derived by considering the handler assessment revenue needed to meet anticipated expenses, the estimated salable tons of California dried prunes, excess funds carried forward into the 2009–10 crop year, and estimated interest income. Dried prune production for the year is estimated to be 160,000 salable tons, which should provide $25,600 in assessment income at $0.16 per ton of salable dried prunes. Income derived from handler assessments, plus excess funds from the 2008–09 crop year should be adequate to cover budgeted expenses.

The Committee is authorized under § 993.81(c) of the order to use excess assessment funds from the 2008–09 crop year (currently estimated at $28,533) for up to 5 months beyond the end of the crop year to meet 2009–10 crop year expenses, which are estimated to be $54,138. At the end of the 5 months, the Committee either refunds or credits excess funds to handlers.

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

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate the Committee's recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2009–10 budget and those for subsequent crop years will be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

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

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

There are approximately 900 producers of dried prunes in the production area and approximately 20 handlers subject to regulation under the marketing order. The Small Business Administration (13 CFR 121.201) defines small agricultural producers as those whose annual receipts are less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,000,000.

Committee data indicates that about 64 percent of the handlers ship under $7,000,000 worth of dried prunes. Dividing the average prune crop value for 2008–09 reported by the National Agricultural Statistics Service (NASS) of $196,080,000 by the number of producers (900) yields an average annual producer revenue estimate of about $217,867. Based on the foregoing, the majority of handlers and dried prune producers may be classified as small entities.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 2009–10 and subsequent crop years from $0.30 to $0.16 per ton of salable dried prunes.

The Committee met on June 25, 2009, and unanimously recommended estimated expenses for 2009–10 of $54,138 and a decreased assessment rate of $0.16 per ton of salable dried prunes. The Committee's budget of expenses of $54,138 includes a slight increase in personnel expenses and decreases in operating expenses and for contingencies. Most of the Committee's expenses reflect its portion of the joint administrative costs of the Committee and the CDPB. The Committee believes that extra assessment income carried in from the 2008 crop year, plus interest income and 2009 assessment income, is adequate to cover its estimated expenses of $54,138.

The assessment rate of $0.16 per ton of salable dried prunes is $0.14 per ton of salable dried prunes lower than the rate currently in effect. The quantity of salable dried prunes for the 2009–10 crop year is currently estimated at 160,000 tons, compared to 125,373 tons of salable dried prunes for the 2008–09 crop year.

The major expenditures recommended by the Committee for the

2009–10 crop year include $26,450 for salaries and benefits, $11,780 for operating expenses, and $15,908 for contingencies. Budgeted expenses for these items in 2008–09 were $26,248 for salaries and benefits, $12,893 for operating expenses, and $26,459 for contingencies.

The 2009–10 assessment rate was derived by considering the handler assessment revenue needed to meet anticipated expenses, the estimated salable tons of California dried prunes, excess funds carried forward into the 2009–10 crop year, and estimated interest income. Therefore, the Committee recommended an assessment rate of $0.16 per ton of salable dried prunes.

Prior to arriving at its budget of $54,138, the Committee considered information from various sources, including the Committee's Executive Subcommittee. The Executive Subcommittee reviewed the administrative expenses shared between the Committee and the CDPB in recent years. The Executive Subcommittee then recommended the $54,138 budget and $0.16 per ton assessment rate to the Committee. The Committee recommended the same budget and assessment rate to USDA.

Section 993.81(c) of the order provides the Committee the authority to use excess assessment funds from the 2008–09 crop year (estimated at $28,533) for up to 5 months beyond the end of the crop year to meet 2009–10 crop year expenses, which are estimated to be $54,138. At the end of the 5 months, the Committee either refunds or credits excess funds to handlers.

To calculate the percentage of grower revenue represented by the assessment rate for 2008, the assessment rate of $0.30 per ton is divided by the estimated average grower price (according to the NASS). This results in estimated assessment revenue for the 2008–09 crop year as a percentage of grower revenue of .02 percent ($0.30 divided by $1,520 per ton). NASS data for 2009 is not yet available. However, applying the same calculations above using the average grower price for 2006–08 would result in estimated assessment revenue as a percentage of total grower revenue of .01 percent for the 2009–10 crop year ($0.16 divided by $1,453 per ton). Thus, the assessment revenue should be well below 1 percent of estimated grower revenue in 2009.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the California dried prune industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 25, 2009, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this interim final rule, including the regulatory and informational impacts of this action on small businesses.

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

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

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

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

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

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2009–10 crop year begins on August 1, 2009, and the marketing order requires that the rate of assessment for each year apply to all assessable prunes handled during the year; (2) this action decreases the assessment rate for assessable prunes beginning with the 2009–10 crop year; (3) handlers are aware of this action which was unanimously recommended at a public meeting and is similar to actions recommended by the Committee in past years, and (4) this interim final rule provides for a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 993

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

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

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

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

Authority: 7 U.S.C. 601–674.

■ 2. Section 993.347 is revised to read as follows:

§ 993.347 Assessment rate.

On and after August 1, 2009, an assessment rate of $0.16 per ton of salable dried prunes is established for California dried prunes.

Dated: September 2, 2009.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. E9–21658 Filed 9–8–09; 8:45 am]

BILLING CODE 3410–02–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

RIN 3245–AE92

Small Business Size Regulations; Rules of Procedure Governing Cases Before the Office of Hearings and Appeals; Correction

AGENCY: U.S. Small Business Administration.

ACTION: Correcting amendments.

SUMMARY: The U.S. Small Business Administration (SBA) is correcting several of its Small Business Size Regulations, published in the **Federal Register** on May 21, 2004. SBA is correcting a reference to an incorrect North American Industry Classification System (NAICS) code, and updating two Internet Web addresses that appear in part 121 of the Code of Federal Regulations (CFR), chapter 13.

DATES: Effective September 9, 2009.

FOR FURTHER INFORMATION CONTACT: Carl J. Jordan, Program Analyst, Office of

Size Standards, (202) 205–6618 or *sizestandards@sba.gov.*

SUPPLEMENTARY INFORMATION: SBA is correcting language and references in its Small Business Size Regulations contained in part 121 of the Code of Federal Regulations (CFR), chapter 13. These are administrative corrections only. Specifically, SBA is correcting 13 CFR 121.101, 121.410 and 121.1205.

1. 13 CFR 121.101, ''What are SBA size standards?''

The text of 13 CFR § 121.101(b) provides the Internet Web address where the public can obtain the *North American Industry Classification System Manual–United States* from the National Technical Information Service (NTIS), part of the U.S. Department of Commerce. The Internet Web address provided in the text is *http://www.ntis.gov/yellowbk/1nty205.htm.* The NTIS has established a new address, specifically *http://www.ntis.gov/products/naics.aspx.* Although the existing Web address in § 121.101 will take a user to the updated site, SBA believes it should update its regulations as well to reflect the correct Internet Web address.

2. 13 CFR 121.410, ''What are the size standards for SBA's Section 8(d) Subcontracting Program?''

SBA published in the May 15, 2000, **Federal Register** (65 FR 30836–30863) a new table of small business size standards effective October 1, 2000 for industries as defined under NAICS. Until October 1, 2000, the Standard Industrial Classification (SIC) System was the basis for SBA's table of small business size standards. The May 15, 2000 final rule amended 13 CFR 121.410 by replacing ''SIC code 8711'' with ''NAICS code 541330.''

However, an error was made when SBA issued a proposed rule on November 22, 2002, (67 FR 70339–70352) to amend its small business size regulations and the regulations that apply to appeals of size determinations. That rule proposed amending 13 CFR 121.410, which relates to size standards under SBA's Section 8(d) Subcontracting Program. The proposed amendment correctly preserved the language of the May 15, 2000 final rule that described Engineering Services. However, the proposed rule wrongly referenced NAICS code 541213, which is the code for Tax Preparation Services. The proposed rule should have referenced NAICS code 541330, because it is the correct code for Engineering Services, described in 13 CFR 121.410. The corresponding final rule that SBA published on May 21, 2004 (69 FR 29192–29209) did not correct this error, thereby leaving NAICS code 541213 to refer incorrectly to Engineering Services.

The text of 13 CFR 121.410 plainly refers to subcontracting activities that are included within NAICS code 541330, Engineering Services. Furthermore, NAICS code 541330 in SBA's ''Small Business Size Standards by NAICS Industry'' (13 CFR 121.201) clearly includes the same types of contracting activities described in 13 CFR 121.410. The purpose of this correction is to replace NAICS code 541213 in § 121.410 with NAICS code 541330.

3. 13 CFR 121.1205, ''How is a list of previously granted class waivers obtained?''

The text of 13 CFR 121.1205 provides the Internet Web address where SBA maintains for the public a list of waivers of the Nonmanufacturer Rule that it has granted. SBA has updated that Internet Web address, and this action will similarly update § 121.1205.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

■ For the reasons set forth in the preamble, SBA amends part 13 CFR part 121 by making the following correcting amendments.

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 636(b), 637(a), 644, and 662(5); and Pub. L. 105–135, sec. 401 *et seq.,* 111 Stat. 2592.

■ 2. Amend § 121.101 by revising the first sentence of paragraph (b) to read as follows:

§ 121.101 What are SBA size standards?

* * * * *

(b) NAICS is described in the North American Industry Classification Manual–United States, which is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; by calling 1(800) 553–6847 or 1(703) 605–6000; or via the Internet at *http://www.ntis.gov/products/naics.aspx.* * * *

■ 3. Amend § 121.410 by revising the second sentence to read as follows:

§ 121.410 What are the size standards for SBA's Section 8(d) Subcontracting Program?

* * * However, subcontracts for engineering services awarded under the National Energy Policy Act of 1992 have the same size standard as Military and Aerospace Equipment and Military Weapons under NAICS code 541330.

■ 4. Amend § 121.1205 by revising the first sentence to read as follows:

§ 121.1205 How is a list of previously granted class waivers obtained?

A list of classes of products for which waivers for the Nonmanufacturer Rule have been granted is maintained in SBA Web site at: *http://www.sba.gov/aboutsba/sbaprograms/gc/programs/gc_waivers_nonmanufacturer.html.* * * *

Dean R. Koppel,

Acting Director, Office of Government Contracting.

[FR Doc. E9–21505 Filed 9–8–09; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0264; Directorate Identifier 2008–NM–174–AD; Amendment 39–16017; AD 2009–18–20]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–300, A340–200, and A340–300 Series Airplanes

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

ACTION: Final rule.

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

One Long Range operator experienced a failure of one spoiler servo-control, associated with surface deflection in flight and hydraulic leak. On ground, this servo-control Part Number (P/N) MZ4306000–02X was found with the maintenance cover broken. Investigations showed that the rupture of the maintenance cover was due to pressure pulse fatigue.

* * * The rupture of the maintenance cover in flight may result in the deflection of the associated spoiler surface up to the null-hinge position (loss of the hydraulic locking).

It may also result in the loss of the associated hydraulic system (external leakage). In the worst case, the three hydraulic systems may be affected, which constitutes an unsafe condition.

* * * * *

Loss of the three hydraulic systems could result in reduced controllability of the airplane. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective October 14, 2009.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 14, 2009.

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

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 26, 2009 (74 FR 13148). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> One Long Range operator experienced a failure of one spoiler servo-control, associated with surface deflection in flight and hydraulic leak. On ground, this servo-control Part Number (P/N) MZ4306000–02X was found with the maintenance cover broken. Investigations showed that the rupture of the maintenance cover was due to pressure pulse fatigue.
>
> The maintenance cover allows switching the servo-control from ''Operational'' to ''Maintenance'' modes. The same cover is installed on all standard MZ spoiler servo-controls except on P/N MZ4339390–12 and MZ4306000–12, which have a reinforced maintenance cover. The rupture of the maintenance cover in flight may result in the deflection of the associated spoiler surface up to the null-hinge position (loss of the hydraulic locking). It may also result in the loss of the associated hydraulic system (external leakage). In the worst case, the three hydraulic systems may be affected, which constitutes an unsafe condition.
>
> For the reasons described above, this EASA (European Aviation Safety Agency) AD requires the identification and the modification of all standard MZ spoiler servo-controls with initial maintenance cover (P/N MZ4339390–01X, –02X, –10X for position 1 and P/N MZ4306000–01X, –02X, –10X for positions 2 to 6) into standard MZ servo-controls with reinforced maintenance cover (P/N MZ4339390–12 for position 1 and P/N MZ4306000–12 for positions 2 to 6).
>
> Loss of the three hydraulic systems could result in reduced controllability of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Revised Service Information

We have reviewed Airbus Service Bulletin A330–27–3110, Revision 03, dated September 3, 2008. We referred to Airbus Service Bulletin A330–27–3110, Revision 02, dated March 2, 2007, as the appropriate source of service information for accomplishing certain actions specified in the NPRM. We have determined that the actions specified in Airbus Service Bulletin A330–27–3110, Revision 03, dated September 3, 2008, are essentially the same as the actions specified in Airbus Service Bulletin A330–27–3110, Revision 02, dated March 2, 2007. Therefore, we find that no additional work will be required for airplanes that have done the requirements of this AD in accordance with Airbus Service Bulletin A330–27–3110, Revision 02, dated March 2, 2007. We have changed paragraphs (f)(2) through (f)(6) of this AD to refer to Revision 03, dated September 3, 2008, of Airbus Service Bulletin A330–27–3110. We have also changed paragraph (f)(7) of this AD to give credit to operators who have accomplished the actions in accordance with Airbus Service Bulletin A330–27–3110, Revision 02, dated March 2, 2007, as well as the earlier versions of the service bulletin.

Comments

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

Request To Clarify Proposed Applicability

Airbus asks that the applicability specified in paragraph (c) of the NPRM be clarified. Airbus notes that the language ''* * * except those identified in paragraphs (c)(1) and (c)(2) of this AD'' is misleading, because the exceptions are already included in paragraphs (c)(1) and (c)(2) of the AD.

We agree with Airbus. We have changed paragraph (c) of this AD as follows: ''This AD applies to Airbus Model A330–300, A340–200, and A340–300 series airplanes; certificated in any category; as identified in paragraphs (c)(1) and (c)(2) of this AD.''

Request To Clarify Paragraphs (f)(1), (f)(2)(i), and (f)(2)(ii) of the NPRM

Airbus also asks that the words ''of the aircraft'' be added to the applicable paragraphs after the words ''since first flight'' for clarification. Airbus notes that the missing text is confusing to operators, who are asking Airbus if ''since first flight'' refers to flight hours on the equipment or flight hours on the airplane.

We agree with Airbus. It was our intent that the phrase ''since first flight'' apply to the subject airplanes, not equipment. Therefore, we have changed all applicable references in paragraphs (f)(1) through (f)(6) of this AD to specify ''since first flight of the airplane.''

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this AD affects 16 products of U.S. registry. We also estimate that it takes 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the AD on U.S. operators to be $1,280, or $80 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of

the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–18–20 Airbus: Amendment 39–16017. Docket No. FAA–2009–0264; Directorate Identifier 2008–NM–174–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective October 14, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A330–300, A340–200, and A340–300 series airplanes; certificated in any category; as identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Airbus Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes, manufacturer serial numbers (MSNs) up to and including MSN 588, except those on which Airbus Service Bulletin A330–27–3110 has been embodied in service.

(2) Airbus Model A340–211, –212, –213, –311, –312, and –313 airplanes, MSNs up to and including MSN 598, except those on which Airbus Service Bulletin A340–27–4115 has been embodied in service.

Subject

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

Reason

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

One Long Range operator experienced a failure of one spoiler servo-control, associated with surface deflection in flight and hydraulic leak. On ground, this servo-control Part Number (P/N) MZ4306000–02X was found with the maintenance cover broken. Investigations showed that the rupture of the maintenance cover was due to pressure pulse fatigue.

The maintenance cover allows switching the servo-control from ''Operational'' to ''Maintenance'' modes. The same cover is installed on all standard MZ spoiler servo-controls except on P/N MZ4339390–12 and MZ4306000–12, which have a reinforced maintenance cover. The rupture of the maintenance cover in flight may result in the deflection of the associated spoiler surface up to the null-hinge position (loss of the hydraulic locking). It may also result in the loss of the associated hydraulic system (external leakage). In the worst case, the three hydraulic systems may be affected, which constitutes an unsafe condition.

For the reasons described above, this EASA (European Aviation Safety Agency) AD requires the identification and the modification of all standard MZ spoiler servo-controls with initial maintenance cover (P/N MZ4339390–01X, –02X, –10X for position 1 and P/N MZ4306000–01X, 02X, –10X for positions 2 to 6) into standard MZ servo-controls with reinforced maintenance cover (P/N MZ4339390–12 for position 1 and P/N MZ4306000–12 for positions 2 to 6).

Loss of the three hydraulic systems could result in reduced controllability of the airplane.

Actions and Compliance

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

(1) For airplanes that have accumulated more than 8,500 total flight cycles since first flight of the airplane as of the effective date of this AD: Do the actions required by paragraphs (f)(1)(i) and (f)(1)(ii) of this AD, as applicable.

(i) Within 3 months after the effective date of this AD: Identify the part number of spoiler servo-controls installed on the airplane at all positions in order to determine the number of affected hydraulic circuits in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330–27A3154, Revision 01; or Airbus Mandatory Service Bulletin A340–27A4154, Revision 01; both dated July 25, 2008; as applicable. If there is no spoiler servo-control installed with a part number identified in Table 1 of this AD, no further action is required by this paragraph.

(ii) If there is any spoiler servo-control installed with a part number identified in Table 1 of this AD, do all applicable actions required by paragraph (f)(2), (f)(3), or (f)(4) of this AD, as applicable.

TABLE 1—SPOILER SERVO-CONTROL PART NUMBERS

Position 1	Positions 2 through 6
MZ4339390–01X	MZ4306000–01X
MZ4339390–02X	MZ4306000–02X
MZ4339390–10X	MZ4306000–10X

(2) If three affected hydraulic circuits are identified during the inspection required by paragraph (f)(1) of this AD, do the actions required by paragraphs (f)(2)(i), (f)(2)(ii), and (f)(2)(iii) of this AD, at the time specified.

(i) Before the accumulation of 10,400 total flight cycles since first flight of the airplane, or within 3 months after accomplishing the requirements of paragraph (f)(1)(i) of this AD, whichever occurs later: Modify the affected spoiler servo-controls on one hydraulic circuit in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3110, Revision 03, dated September 3, 2008; or Airbus Service Bulletin A340–27–4115, Revision 01, dated March 2, 2007; as applicable.

(ii) Before the accumulation of 10,800 total flight cycles since first flight of the airplane, or within 6 months after accomplishing the requirements in paragraph (f)(1)(i) of this AD, whichever occurs later: Modify the affected spoiler servo-controls on the second hydraulic circuit in accordance with the

Accomplishment Instructions of Airbus Service Bulletin A330–27–3110, Revision 03, dated September 3, 2008; or Airbus Service Bulletin A340–27–4115, Revision 01, dated March 2, 2007; as applicable.

(iii) Within 18 months after the effective date of this AD: Modify the remaining affected spoiler servo-controls in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3110, Revision 03, dated September 3, 2008; or Airbus Service Bulletin A340–27–4115, Revision 01, dated March 2, 2007; as applicable.

(3) If two affected hydraulic circuits are identified during the inspection required by paragraph (f)(1) of this AD, do the actions required by paragraphs (f)(3)(i) and (f)(3)(ii) of this AD, at the time specified.

(i) Before the accumulation of 10,800 total flight cycles since first flight of the airplane, or within 6 months after accomplishing the requirements specified in paragraph (f)(1)(i) of this AD, whichever occurs later: Modify the affected spoiler servo-controls on one hydraulic circuit in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3110, Revision 03, dated September 3, 2008; or Airbus Service Bulletin A340–27–4115, Revision 01, dated March 2, 2007; as applicable.

(ii) Within 18 months after the effective date of this AD: Modify the remaining affected spoiler servo-controls in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3110, Revision 03, dated September 3, 2008; or Airbus Service Bulletin A340–27–4115, Revision 01, dated March 2, 2007; as applicable.

(4) If one affected hydraulic circuit is identified during the inspection required by paragraph (f)(1) of this AD: Within 18 months after the effective date of this AD, modify the affected spoiler servo-controls in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3110, Revision 03, dated September 3, 2008; or Airbus Service Bulletin A340–27–4115, Revision 01, dated March 2, 2007; as applicable.

(5) For airplanes that have accumulated less than or equal to 8,500 total flight cycles since first flight of the airplane as of the effective date of this AD: Do the actions required by paragraphs (f)(5)(i) and (f)(5)(ii) of this AD, as applicable.

(i) Within 9 months after the effective date of this AD: Do the actions specified in paragraph (f)(1)(i) of this AD. If there is no spoiler servo-control installed with a part number identified in Table 1 of this AD, no further action is required by this paragraph.

(ii) If there is any spoiler servo-control installed with a part number identified in Table 1 of this AD: Within 18 months after the effective date of this AD, modify all the affected spoiler servo-controls in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3110, Revision 03, dated September 3, 2008; or Airbus Service Bulletin A340–27–4115, Revision 01, dated March 2, 2007; as applicable.

(6) As of the effective date of this AD, no person may install any spoiler servo-control with a part number identified in Table 1 of this AD on any airplane as a replacement part, unless the part has been modified in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3110, Revision 03, dated September 3, 2008; or Airbus Service Bulletin A340–27–4115, Revision 01, dated March 2, 2007; as applicable.

(7) Actions accomplished before the effective date of this AD in accordance with the service bulletins specified in Table 2 of this AD are considered acceptable for compliance with the corresponding requirements of this AD.

TABLE 2—CREDIT SERVICE INFORMATION

Service Bulletin	Revision level	Date
Airbus Service Bulletin A330–27–3110	Original	November 28, 2003.
Airbus Service Bulletin A330–27–3110	01	March 26, 2004.
Airbus Service Bulletin A330–27–3110	02	March 2, 2007.
Airbus Service Bulletin A340–27–4115	Original	November 28, 2003.

FAA AD Differences

Note 1: 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, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

(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, 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 EASA Airworthiness Directive 2008–0160, dated August 22, 2008, and the service bulletins specified in Table 3 of this AD, for related information.

TABLE 3—RELATED SERVICE INFORMATION

Service Bulletin	Revision level	Date
Airbus Mandatory Service Bulletin A330–27A3154	01	July 25, 2008.
Airbus Mandatory Service Bulletin A340–27A4154	01	July 25, 2008.
Airbus Service Bulletin A330–27–3110	03	September 3, 2008.
Airbus Service Bulletin A340–27–4115	01	March 2, 2007.

Material Incorporated by Reference

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

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

(2) For service information identified in this AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80, e-mail

airworthiness.A330-A340@airbus.com; Internet *http://www.airbus.com.*

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

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

TABLE 4—MATERIAL INCORPORATED BY REFERENCE

Service Bulletin	Revision level	Date
Airbus Mandatory Service Bulletin A330–27A3154, excluding Appendix 1	01	July 25, 2008.
Airbus Mandatory Service Bulletin A340–27A4154, excluding Appendix 1	01	July 25, 2008.
Airbus Service Bulletin A330–27–3110	03	September 3, 2008.
Airbus Service Bulletin A340–27–4115	01	March 2, 2007.

Issued in Renton, Washington, on August 26, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–21408 Filed 9–8–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0526; Directorate Identifier 2009–NM–029–AD; Amendment 39–16008; AD 2009–18–12]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–400 Series Airplanes

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

ACTION: Final rule.

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

Four aircraft have experienced a dual AC [alternating current] generator shutdown, caused by a broken propeller de-ice bus bar which short-circuited with the backplate assembly.

* * * A short circuit can cause a dual AC generator shutdown that, particularly in conjunction with an engine failure in icing conditions, could result in reduced controllability of the aircraft.

* * * * *

Reduced controllability of the airplane in certain operating conditions affects continued safe flight and landing. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective October 14, 2009.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 14, 2009.

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

FOR FURTHER INFORMATION CONTACT: Wing Chan, Aerospace Engineer, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7311; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on June 10, 2009 (74 FR 27476). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Four aircraft have experienced a dual AC [alternating current] generator shutdown, caused by a broken propeller de-ice bus bar which short-circuited with the backplate assembly.

It was subsequently determined that any friction or contact between a propeller de-ice bus bar and the backplate assembly can cause an intermittent short circuit. Such a short circuit can cause a dual AC generator shutdown that, particularly in conjunction with an engine failure in icing conditions, could result in reduced controllability of the aircraft.

This [Transport Canada Civil Aviation] directive mandates revision of the Airplane Flight Manual (AFM) to introduce a procedure that restores AC power following a failure of No. 1 and No. 2 AC generators with propeller de-ice on. Additionally, in order to prevent similar dual AC generator shutdowns, it mandates the application of sealant as insulation between the propeller de-ice bus bars and the backplate assembly.

Reduced controllability of the airplane in certain operating conditions affects continued safe flight and landing. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 62 products of U.S. registry. We also estimate that it will take about 6 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the

cost of this AD to the U.S. operators to be $29,760, or $480 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–18–12 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–16008. Docket No. FAA–2009–0526; Directorate Identifier 2009–NM–029–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective October 14, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model DHC–8–400, DHC–8–401, and DHC–8–402 series airplanes, certificated in any category, serial numbers 4001, 4003, 4004, 4006, and 4008 through 4154 inclusive.

Subject

(d) Air Transport Association (ATA) of America Code 61: Propellers/Propulsors.

Reason

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

Four aircraft have experienced a dual AC [alternating current] generator shutdown, caused by a broken propeller de-ice bus bar which short-circuited with the backplate assembly.

It was subsequently determined that any friction or contact between a propeller de-ice bus bar and the backplate assembly can cause an intermittent short circuit. Such a short circuit can cause a dual AC generator shutdown that, particularly in conjunction with an engine failure in icing conditions, could result in reduced controllability of the aircraft.

This [Transport Canada Civil Aviation] directive mandates revision of the Airplane Flight Manual (AFM) to introduce a procedure that restores AC power following a failure of No. 1 and No. 2 AC generators with propeller de-ice on. Additionally, in order to prevent similar dual AC generator shutdowns, it mandates the application of sealant as insulation between the propeller de-ice bus bars and the backplate assembly.

Reduced controllability of the airplane in certain operating conditions affects continued safe flight and landing.

Actions and Compliance

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

(1) Within 30 days after the effective date of this AD, revise the Limitations Section of the Bombardier Dash 8 Q400 AFM, PSM 1–84–1A, by inserting a copy of Bombardier Dash 8 Q400 Temporary Amendment (TA) 14, Issue 1, dated May 10, 2006. When the information in Bombardier TA 14, Issue 1, dated May 10, 2006, is included in the general revisions of the AFM, the general revisions may be inserted in the AFM and the TA may be removed.

(2) Within 5,000 flight hours after the effective date of this AD: Apply sealant between the bus bar assemblies and the backplate assembly by incorporating Bombardier DHC–8–400 Modification Summary 4–163047, Revision B, dated August 22, 2008, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–61–03, Revision 'A,' dated September 18, 2008.

(3) Incorporating Bombardier DHC–8–400 Modification Summary Package 4–163047 before the effective date of this AD in accordance with Bombardier Service Bulletin 84–61–03, dated April 27, 2007, is considered acceptable for compliance with the requirements of paragraph (f)(2) of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, New York Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Wing Chan, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7311; fax (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

(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, 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 Canadian Airworthiness Directive CF–2009–01, dated January 19, 2009; Bombardier Dash 8 Q400 TA 14, Issue 1, dated May 10, 2006; and Bombardier Service Bulletin 84–61–03, Revision 'A,' dated September 18, 2008; for related information.

Material Incorporated by Reference

(i) You must use Bombardier Dash 8 Q400 Temporary Amendment 14, Issue 1, dated May 10, 2006; and Bombardier Service Bulletin 84–61–03, Revision 'A,' dated September 18, 2008; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; e-mail *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.*

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

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

Issued in Renton, Washington, on August 18, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–20836 Filed 9–8–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0563; Directorate Identifier 2008–NM–180–AD; Amendment 39–16005; AD 2009–18–09]

RIN 2120–AA64

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

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

ACTION: Final rule.

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

A recent design review has been carried out on the F28 Mark 0070/0100 fuel system in accordance with the guidelines related to FAA SFAR 88 [Special Federal Aviation Regulation No. 88] (Fuel Tank Safety Program) and JAA [Joint Aviation Authorities] INT/POL/25/12. The review revealed that under certain failure conditions, prolonged dry running of the fuel transfer pumps may result in an ignition source in the centre wing fuel tank. This condition, if not corrected, could lead to ignition of flammable fuel vapors, resulting in fuel tank explosion and consequent loss of the aircraft.

* * * * *

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

DATES: This AD becomes effective October 14, 2009.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 14, 2009.

On October 27, 1999 (64 FR 51202, September 22, 1999), the Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on June 19, 2009 (74 FR 29144), and proposed to supersede AD 99–20–01, Amendment 39–11329 (64 FR 51202, September 22, 1999). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

A recent design review has been carried out on the F28 Mark 0070/0100 fuel system in accordance with the guidelines related to FAA SFAR 88 [Special Federal Aviation Regulation No. 88] (Fuel Tank Safety Program) and JAA [Joint Aviation Authorities] INT/POL/25/12. The review revealed that under certain failure conditions, prolonged dry running of the fuel transfer pumps may result in an ignition source in the centre wing fuel tank. This condition, if not corrected, could lead to ignition of flammable fuel vapors, resulting in fuel tank explosion and consequent loss of the aircraft.

To address and correct this unsafe condition, new software (version V13.55) has been developed for the Flight Warning Computer (FWC). This software update introduces a decreased time delay of the centre wing fuel tank low pressure alert from 15 minutes to 60 seconds, to stop prolonged dry running of the fuel transfer pumps.

For the reasons described above, this EASA Airworthiness Directive (AD) requires the replacement of the FWC with a modified unit, incorporating software version V13.55.

The corrective actions include revising the airplane flight manual (AFM) to change certain indications and warnings; installing new software for the multifunction display unit (MFDU); and installing a new resistor in the thrust reverser indicator and control system, or an improved thrust reverser unlock indication relay. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD affects about 4 products of U.S. registry.

The actions that are required by AD 99–20–01 and retained in this AD take about 7 work-hours per product, at an average labor rate of $80 per work hour. Required parts cost about $1,593 per product. Based on these figures, the estimated cost of the currently required actions is $2,153 per product.

We estimate that it takes about 7 work-hours per product to comply with the new basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts cost about $5,350 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to U.S. operators to be $23,640, or $5,910 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–11329 (64 FR 51202, September 22, 1999) and adding the following new AD:

2009–18–09 Fokker Services B.V.: Amendment 39–16005. Docket No. FAA–2009–0563; Directorate Identifier 2008–NM–180–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective October 14, 2009.

Affected ADs

(b) This AD supersedes AD 99–20–01, Amendment 39–11329.

Applicability

(c) This AD applies to airplanes, certificated in any category, as identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Fokker Model F.28 Mark 0100 airplanes, all serial numbers.

(2) Fokker Model F.28 Mark 0070 airplanes, serial numbers 11521, 11528 through 11537 inclusive, 11545, 11547, 11553, 11557, 11561, 11562, 11566, 11567, 11571, 11572, 11576 through 11579 inclusive, and 11581 through 11583 inclusive. All airplanes with these serial numbers are fitted with center wing fuel tanks.

Subject

(d) Air Transport Association (ATA) of America Codes 31 and 78: Instruments and Engine Exhaust, respectively.

Reason

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

A recent design review has been carried out on the F28 Mark 0070/0100 fuel system in accordance with the guidelines related to FAA SFAR 88 [Special Federal Aviation Regulation No. 88] (Fuel Tank Safety Program) and JAA [Joint Aviation Authorities] INT/POL/25/12. The review revealed that under certain failure conditions, prolonged dry running of the fuel transfer pumps may result in an ignition source in the centre wing fuel tank. This condition, if not corrected, could lead to ignition of flammable fuel vapors, resulting in fuel tank explosion and consequent loss of the aircraft.

To address and correct this unsafe condition, new software (version V13.55) has been developed for the Flight Warning Computer (FWC). This software update introduces a decreased time delay of the centre wing fuel tank low pressure alert from 15 minutes to 60 seconds, to stop prolonged dry running of the fuel transfer pumps.

For the reasons described above, this EASA Airworthiness Directive (AD) requires the replacement of the FWC with a modified unit, incorporating software version V13.55.

The corrective actions include revising the airplane flight manual (AFM) to change certain indications and warnings; installing new software for the multifunction display unit (MFDU); and installing a new resistor in the thrust reverser indicator and control system, or an improved thrust reverser unlock indication relay.

Restatement of Requirements of AD 99–20–01 With No Changes to the Modifications

(f) Unless already done, within 18 months after October 27, 1999 (the effective date of AD 99–20–01), modify the electrical wiring of the FWC in accordance with Part 1 or 2, as applicable, of the Accomplishment Instructions of Fokker Service Bulletin SBF100–31–047, Revision 1, dated March 21, 1997.

Note 1: It is not necessary to install computer software version V10.40 into the FWC, since a later version is available and is required to be installed by AD 99–20–01.

(g) Unless already done, concurrently with the accomplishment of the requirements of paragraph (f) of this AD, install upgraded computer software version V11.45 into the FWC in accordance with Fokker Service Bulletin SBF100–31–051, dated August 15, 1998.

Note 2: AlliedSignal Grimes Aerospace has issued Service Bulletin 80–0610–31–0031, dated May 14, 1998, as an additional source

of guidance for installation of the upgraded computer software version into the FWC.

Note 3: Operators should note that Fokker Service Bulletin SBF100–31–051, dated August 15, 1998, specifies prior or concurrent accomplishment of Fokker Service Bulletin SBF100–78–014 (which specifies concurrent accomplishment of Fokker Component Service Bulletin (CSB) P41440–78–04, and prior or concurrent accomplishment of Fokker Service Bulletin SBF100–78–012 and CSB P41440–78–05). Related FAA AD 99–20–02, amendment 39–11330, requires accomplishment of these four other service bulletins.

New Requirements of This AD: Actions and Compliance

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

(1) Within 36 months after the effective date of this AD, replace FWC units having part number (P/N) 80–0610–3–45 and P/N 80–0610–3–50 with modified units having P/N 80–0610–3–55, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–31–067, Revision 1, dated April 24, 2008.

(2) Within 36 months after the effective date of this AD and concurrently with the accomplishment of paragraph (h)(1) of this AD, revise the Emergency and Abnormal Procedures sections of the airplane flight manual (AFM), as specified in Fokker Manual Change Notification-Operational Documentation MCNO–F100–050, dated January 31, 2008, which is included in Fokker Service Bulletin SBF100–31–067, Revision 1, dated April 24, 2008. These AFM sections provide alterations, which are introduced in Fokker Service Bulletin SBF100–31–067, Revision 1, dated April 24, 2008.

Note 4: Revisions to the Emergency Procedures and Abnormal Procedures sections of the AFM, as specified in Fokker MCNO–F100–050, dated January 31, 2008, may be done by inserting copies of Fokker MCNO–F100–050, dated January 31, 2008, into the AFM. When the information in Fokker MCNO–F100–050, dated January 31, 2008, has been included in general revisions of the AFM, the general revisions may be inserted in the AFM, provided the relevant information in the general revisions are identical to that in Fokker MCNO–F100–050, dated January 31, 2008.

(3) After accomplishing paragraph (h)(1) of this AD, no person may install an FWC having P/N 80–0610–3–45 or P/N 80–0610–3–50, unless it has been modified to P/N 80–0610–3–55 standard in accordance with Honeywell Service Bulletin 80–0610–31–0003, dated February 13, 2008.

(4) Within 36 months after the effective date of this AD, install software version V12 for the MFDU in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–31–060, dated June 1, 2002.

(5) Within 36 months after the effective date of this AD, modify the thrust reverser indication and control system in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–78–016, dated October 1, 1999; or modify the thrust reverser unlock indication relay in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–78–017, dated December 1, 1999.

FAA AD Differences

Note 5: This AD differs from the MCAI and/or service information as follows:

(1) Replacing the MFDU in accordance with Fokker Service Bulletin SBF100–31–060, dated June 1, 2002, is not included in the MCAI; however, this AD includes that action. It is necessary to install a new version of the MFDU software before installing the new version of the FWC software.

(2) Modifying the thrust reverser indication and control system in accordance with Fokker Service Bulletin SBF100–78–016, dated October 1, 1999; or modifying the thrust reverser unlock indication relay in accordance with Fokker Service Bulletin SBF100–78–017, dated December 1, 1999, is not included in the MCAI; however, this AD includes those actions. It is necessary to do one of those actions before installing the MFDU software.

Other FAA AD Provisions

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

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

(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, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(j) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2008–0090, dated May 13, 2008, and the service information identified in Table 1 of this AD, for related information.

TABLE 1—RELATED INFORMATION

Service information—	Revision level—	Dated—
Fokker Service Bulletin SBF100–31–047	1	March 21, 1997.
Fokker Service Bulletin SBF100–31–051	Original	August 15, 1998.
Fokker Service Bulletin SBF100–31–060	Original	June 1, 2002.
Fokker Service Bulletin SBF100–31–067, including Fokker Manual Change Notification-Operational Documentation MCNO–F100–50, dated January 31, 2008.	1	April 24, 2008.
Fokker Service Bulletin SBF100–78–016	Original	October 1, 1999.
Fokker Service Bulletin SBF100–78–017	Original	December 1, 1999.

Material Incorporated by Reference

(k) You must use the service information contained in Table 2 of this AD to do the actions required by this AD, unless the AD specifies otherwise.

TABLE 2—ALL MATERIAL INCORPORATED BY REFERENCE

Document	Revision	Date
Fokker Service Bulletin SBF100–31–047	1	March 21, 1997.
Fokker Service Bulletin SBF100–31–051	Original	August 15, 1998.

TABLE 2—ALL MATERIAL INCORPORATED BY REFERENCE—Continued

Document	Revision	Date
Fokker Service Bulletin SBF100–31–060	Original	June 1, 2002.
Fokker Service Bulletin SBF100–31–067, including Fokker Manual Change Notification-Operational Documentation MCNO–F100–50, dated January 31, 2008.	1	April 24, 2008.
Fokker Service Bulletin SBF100–78–016	Original	October 1, 1999.
Fokker Service Bulletin SBF100–78–017	Original	December 1, 1999.

(1) The Director of the Federal Register approved the incorporation by reference of the service information contained in Table 3 of this AD under 5 U.S.C. 552(a) and 1 CFR part 51.

TABLE 3—NEW MATERIAL INCORPORATED BY REFERENCE

Document	Revision	Date
Fokker Service Bulletin SBF100–31–060	Original	June 1, 2002.
Fokker Service Bulletin SBF100–31–067, including Fokker Manual Change Notification-Operational Documentation MCNO–F100–50, dated January 31, 2008.	1	April 24, 2008.
Fokker Service Bulletin SBF100–78–016	Original	October 1, 1999.
Fokker Service Bulletin SBF100–78–017	Original	December 1, 1999.

(2) The Director of the Federal Register previously approved the incorporation by reference of Fokker Service Bulletin SBF100–31–047, Revision 1, dated March 21, 1997; and Fokker Service Bulletin SBF100–31–051, dated August 15, 1998; on October 27, 1999 (64 FR 51202, September 22, 1999).

(3) For Fokker service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands; telephone +31 (0)252–627–350; fax +31 (0)252–627–211; e-mail *technicalservices.fokkerservices@stork.com*; Internet *http://www.myfokkerfleet.com*.

(4) For AlliedSignal Grimes Aerospace and Honeywell service information identified in this AD, contact Honeywell Aerospace, Technical Publications and Distribution, M/S 2101–201, P.O. Box 52170, Phoenix, Arizona 85072–2170; telephone 602–365–5535; fax 602–365–5577; Internet *http://www.honeywell.com*.

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

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

Issued in Renton, Washington, on August 18, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–20840 Filed 9–8–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0381; Directorate Identifier 2009–NM–008–AD; Amendment 39–16016; AD 2009–18–19]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–200 and –300 Series Airplanes and Model A340–200 and –300 Series Airplanes

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

ACTION: Final rule.

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

An A340 operator has reported an uncommanded engine N°4 shut down during taxi after landing.

The root cause of this event has been identified as failure of the fuel pump Non Return Valve (NRV) preventing the collector cell jet pump from working. This led to engine N°4 collector cell fuel level to drop below the pump inlet and consequently causing engine N°4 flame out.

* * * * *

Multiple NRV failures in combination with failure modes trapping fuel could potentially increase the quantity of unusable fuel on aircraft possibly leading to fuel starvation which could result in engine in-flight shut down and would constitute an unsafe condition.

* * * * *

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

DATES: This AD becomes effective October 14, 2009.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 14, 2009.

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

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on April 29, 2009 (74 FR 19464). That NPRM proposed to correct

an unsafe condition for the specified products. The MCAI states:

> An A340 operator has reported an uncommanded engine N°4 shut down during taxi after landing.
>
> The root cause of this event has been identified as failure of the fuel pump Non Return Valve (NRV) preventing the collector cell jet pump from working. This led to engine N°4 collector cell fuel level to drop below the pump inlet and consequently causing engine N°4 flame out.
>
> A330 aircraft which have a similar design are also impacted by this issue.
>
> Multiple NRV failures in combination with failure modes trapping fuel could potentially increase the quantity of unusable fuel on aircraft possibly leading to fuel starvation which could result in engine in-flight shut down and would constitute an unsafe condition.
>
> To prevent such an event, this Airworthiness Directive (AD) requires a periodic operational test to check the correct operation of NRV and to apply the associated corrective actions.

The corrective action includes replacing any failed NRV with a new NRV. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Request To Clarify Applicability Statement and Paragraphs (f)(1) and (f)(2) of the NPRM

Airbus suggests that we revise the NPRM to specify all models in the Applicability statement and in paragraphs (f)(1) and (f)(2) of the proposed AD.

We agree. For clarity, we have revised the applicability statement and paragraphs (f)(1), (f)(2), (f)(3)(i), and (f)(3)(ii) of this AD to identify all affected models as specified in the applicable type certificate data sheet.

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD affects 50 products of U.S. registry. We also estimate that it takes about 5 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $20,000, or $400 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–18–19 Airbus: Amendment 39–16016. Docket No. FAA–2009–0381; Directorate Identifier 2009–NM–008–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective October 14, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of the AD, certificated in any category.

(1) Airbus Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 series airplanes, all serial numbers.

(2) Airbus Model A340–211, –212, –213, –311, –312, and –313 series airplanes, all serial numbers.

Subject

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

Reason

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

An A340 operator has reported an uncommanded engine N°4 shut down during taxi after landing.

The root cause of this event has been identified as failure of the fuel pump Non Return Valve (NRV) preventing the collector cell jet pump from working. This led to engine N°4 collector cell fuel level to drop below the pump inlet and consequently causing engine N°4 flame out.

A330 aircraft which have a similar design are also impacted by this issue.

Multiple NRV failures in combination with failure modes trapping fuel could potentially increase the quantity of unusable fuel on aircraft possibly leading to fuel starvation which could result in engine in-flight shut down and would constitute an unsafe condition.

To prevent such an event, this Airworthiness Directive (AD) requires a periodic operational test to check the correct operation of NRV and to apply the associated corrective actions.

The corrective action includes replacing any failed NRV with a new NRV.

Actions and Compliance

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

(1) For Airbus Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 series airplanes: At the later of the times in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD, perform an operational test for correct functioning of the NRV and apply all applicable corrective actions, in accordance with instructions defined in Airbus Mandatory Service Bulletin A330–28–3108, including Appendix 1, dated October 13, 2008. Do all applicable corrective actions before further flight.

(i) Within 24 months or 8,000 flight hours after the effective date of this AD, whichever occurs first.

(ii) Before the accumulation of 10,000 total flight hours after the first flight of the airplane.

(2) For Airbus Model A340–211, –212, –213, –311, –312, and –313 series airplanes: At the later of the times in paragraphs (f)(2)(i) and (f)(2)(ii) of this AD, perform an operational test for correct functioning of the NRV and apply all applicable corrective actions, in accordance with instructions defined in Airbus Mandatory Service Bulletin A340–28–4123, including Appendix 1, dated October 13, 2008. Do all applicable corrective actions before further flight.

(i) Within 24 months or 9,000 flight hours after the effective date of this AD, whichever occurs first.

(ii) Before the accumulation of 25,000 total flight hours after the first flight of the airplane.

(3) Repeat the operational test specified in paragraph (f)(1) or (f)(2) of this AD as applicable, at the applicable interval in paragraph (f)(3)(i) or (f)(3)(ii) of this AD.

(i) For Airbus Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, and –343 series airplanes: At intervals not to exceed 10,000 flight hours.

(ii) For Airbus Model A340–211, –212, –213, –311, –312, and –313 series airplanes: At intervals not to exceed 25,000 flight hours.

(4) Submit a report of the findings (both positive and negative) of the inspection required by paragraph (f)(1) or (f)(2) of this AD to Airbus, at the time specified in paragraph (f)(4)(i) or (f)(4)(ii) of this AD, as applicable. The report must include the information specified in Appendix 1 of Airbus Mandatory Service Bulletin A330–28–3108 or A340–28–4123, both dated October 13, 2008, as applicable. Send the report to Airbus Department SEEE6, Airbus Customer Services Directorate, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex France, Attn: SDC32 Technical Data and Documentation Services; fax: +33 5 61 93 28 06; e-mail: *sb.reporting@airbus.com.*

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

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

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal maintenance inspector (PMI) or the principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

(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, 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 Airworthiness Directive 2008–0209, dated November 27, 2008; Airbus Mandatory Service Bulletins A330–28–3108 and A340–28–4123, both including Appendix 1, both dated October 13, 2008; for related information.

Material Incorporated by Reference

(i) You must use Airbus Mandatory Service Bulletin A330–28–3108, including Appendix 1, dated October 13, 2008; or Airbus Mandatory Service Bulletin A340–28–4123, including Appendix 1, dated October 13, 2008; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; fax +33 5 61 93 45 80, e-mail *airworthiness.A330–A340@airbus.com*; Internet *http://www.airbus.com*.

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

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

Issued in Renton, Washington, on August 26, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–21409 Filed 9–8–09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0212; Directorate Identifier 2008–NM–122–AD; Amendment 39–16019; AD 2009–19–02]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, –700C, –800, –900 and –900ER Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Boeing Model 737–600, –700, –700C, –800, –900 and –900ER series airplanes. This AD requires repetitive testing of the rudder pedal forces or repetitive detailed inspections of the inner spring of the rudder feel and centering unit, and corrective actions if necessary. This AD also requires replacement of the spring assembly in the rudder feel and centering unit, which terminates the

repetitive tests or inspections. This AD results from reports of low rudder pedal forces that were caused by a broken inner spring in the rudder feel and centering unit; a broken inner spring in conjunction with a broken outer spring would significantly reduce rudder pedal forces. We are issuing this AD to prevent reduced rudder pedal forces, which could result in increased potential for pilot-induced oscillations and reduce the ability of the flightcrew to maintain the safe flight and landing of the airplane.

DATES: This AD is effective October 14, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of October 14, 2009.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Kelly McGuckin, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6490; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to all Boeing Model 737–600, –700, –700C, –800, –900 and –900ER series airplanes. That NPRM was published in the **Federal Register** on March 10, 2009 (74 FR 10197). That NPRM proposed to require repetitive testing of the rudder pedal forces or repetitive detailed inspections of the inner spring of the rudder feel and centering unit, and corrective actions if necessary. That NPRM also proposed to require replacement of the spring assembly in the rudder feel and centering unit, which terminates the repetitive tests or inspections.

Comments

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

Request To Reduce Applicability and Delete Parts Installation Paragraph

Boeing asks that we reduce the applicability in paragraph (c) of the NPRM to specify only those airplanes listed in Boeing Alert Service Bulletin 737–27A1287, dated April 16, 2008. Boeing states that the ''open applicability,'' as proposed, would apply to delivery of new airplanes. Boeing adds that this will cause an increased cost and paperwork burden by requiring that the AD be listed in the airplane AD status letter and distributed to each customer with the production change incorporated that addresses the unsafe condition. Boeing notes that there was no production change incorporated for Model 737–900ER airplanes; all Model 737–900ER airplanes were delivered with the correct inner spring of the rudder feel and centering unit. Therefore, Model 737–900ER airplanes should be removed from the applicability section.

Boeing also asks that we delete the requirements in paragraph (i) of this AD under ''Parts Installation.'' Boeing states that all affected airplanes with a discrepant inner spring installed are identified in Boeing Alert Service Bulletin 737–27A1287, dated April 16, 2008. Boeing adds that the work instructions contained in the referenced service bulletin describe procedures to modify the rudder feel and centering unit with appropriate part marking. The referenced service bulletin does not give work instructions to remove and replace the rudder feel and centering units; therefore, no unmodified units will be available for parts installation.

We acknowledge that the airplane effectivity identified in Boeing Alert Service Bulletin 737–27A1287, dated April 16, 2008, does not include all Model 737–600, –700, –700C, –800, –900 and 737–900ER airplanes. However, as we explained in the NPRM, this AD does include all Model 737–600, –700, –700C, –800, –900 and –900ER series airplanes. We do not agree to reduce the applicability in this AD, or delete the requirements in paragraph (i) of this AD. We determined that rudder feel and centering units with discrepant springs can be physically installed on any airplane identified in paragraph (c) of this AD. Including all 737 airplane models identified in paragraph (c) of this AD, in addition to the requirements of paragraph (i) of this AD, prohibits future installation of discrepant springs on any affected airplanes. We have not changed the AD in this regard.

Request To Allow Alternative Procedures

Continental Airlines (CAL) asks that we allow each of the following as alternative procedures for replacing a spring assembly (inner and outer spring) in the rudder feel and centering unit having part number (P/N) 69–57900–6, as follows:

- Replace only a suspect part having P/N 69–57907–3 per Chapter 27–21–85 of the component maintenance manual (CMM).
- Replace the entire rudder feel and centering unit having P/N 65C25410–7 per Chapter 27–21–82 of the airplane maintenance manual (AMM), either with one having a part number and serial number combination that is not listed in the Effectivity of Boeing Alert Service Bulletin 737–27A1287, dated April 16, 2008, or with one that has been modified by replacing the inner spring per Chapter 27–21–85 of the CMM.

CAL states that five of its airplanes were modified by replacing the rudder feel and centering units, and in each case the inner spring had not failed and did not subject the outer spring to abnormal stresses, so the outer spring was not replaced. CAL adds that replacing the inner spring per the CMM corrects the unsafe condition and provides an acceptable level of safety.

We disagree with the commenter's request. According to Boeing, replacement of either the feel and centering unit or the inner spring involves a more complex process than replacing the spring assembly, as required by this AD. In addition, there are currently no special instructions for part-marking a modified spring assembly after removing a suspect inner spring. While the commenter's proposed alternative procedures may be acceptable, more information is required. The commenter may submit a request for approval of an alternative method of compliance (AMOC) in accordance with the provisions of paragraph (k) of this AD. The request should address part marking and configuration control of the suspect inner springs, the modified spring assembly, and the feel and centering

unit assembly. For these reasons, and because we have confirmed that adequate spring assembly spares should be available, we have not changed the AD in this regard.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

We estimate that this AD affects 70 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this AD.

TABLE—ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Test or Inspection	1	$80	$0	$80, per test or inspection cycle	70	$5,600
Replacement	3	80	3,138	3,378	70	236,460

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–19–02 Boeing: Amendment 39–16019. Docket No. FAA–2009–0212; Directorate Identifier 2008–NM–122–AD.

Effective Date

(a) This airworthiness directive (AD) is effective October 14, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 737–600, –700, –700C, –800, –900 and –900ER series airplanes, certificated in any category.

Subject

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

Unsafe Condition

(e) This AD results from reports of low rudder pedal forces that were caused by a broken inner spring in the rudder feel and centering unit; a broken inner spring in conjunction with a broken outer spring would significantly reduce rudder pedal forces. We are issuing this AD to prevent reduced rudder pedal forces, which could result in increased potential for pilot-induced oscillations and reduce the ability of the flightcrew to maintain the safe flight and landing of the airplane.

Compliance

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

Test/Inspection

(g) For Model 737–600, –700, –700C, –800, and –900 series airplanes identified in Boeing Alert Service Bulletin 737–27A1287, dated April 16, 2008: Within 30 days after the effective date of this AD, perform a test of the rudder pedal forces or a detailed inspection of the inner spring of the rudder feel and centering unit, by doing all the applicable actions, including all applicable corrective actions before further flight, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1287, dated April 16, 2008. Repeat the test or inspection thereafter at intervals not to exceed 120 days.

Terminating Action

(h) For Model 737–600, –700, –700C, –800, and –900 series airplanes identified in Boeing Alert Service Bulletin 737–27A1287, dated April 16, 2008: Within 36 months after the effective date of this AD, replace the spring assembly in the rudder feel and centering unit in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–27A1287, dated April 16, 2008. Accomplishing the replacement ends the repetitive tests or inspections required by paragraph (g) of this AD.

Parts Installation

(i) For all airplanes: As of the effective date of this AD, no person may install, on any airplane, a rudder feel and centering unit having part number (P/N) 65C25410–7, serial numbers 3609 through 3820 inclusive, unless it has been modified according to paragraph (h) of this AD.

No Reporting Required

(j) Boeing Alert Service Bulletin 737–27A1287, dated April 16, 2008, specifies sending a data reporting sheet to Boeing; however, this AD does not require that action.

Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, ATTN: Kelly McGuckin, Aerospace Engineer,

Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6490; fax (425) 917–6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

Material Incorporated by Reference

(l) You must use Boeing Alert Service Bulletin 737–27A1287, dated April 16, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

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

Issued in Renton, Washington, on August 31, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–21412 Filed 9–8–09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0397; Directorate Identifier 2008–NM–023–AD; Amendment 39–16018; AD 2009–19–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2–1C, B2–203, B2K–3C, B4–103, B4–203, and B4–2C Airplanes

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

ACTION: Final rule.

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

An operator has reported the loss of a centre flap inner tab on an in-service A300 aircraft. The centre flap inner tab detached during approach to an airport. A similar event was reported several years ago on a pre-mod 04770 aircraft. * * *

* * * Investigations led by the manufacturer revealed that the centre hinge bracket developed a fatigue crack causing complete failure of the bracket. The tab rotated causing failure of the inboard link followed by the failure of the outboard link.

[D]etachment of a centre flap inner tab * * * could be a potential risk to persons on [the] ground * * *.

* * * * *

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

DATES: This AD becomes effective October 14, 2009.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 14, 2009.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on April 30, 2009 (74 FR 19908). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

An operator has reported the loss of a centre flap inner tab on an in-service A300 aircraft. The centre flap inner tab detached during approach to an airport. A similar event was reported several years ago on a pre-mod 04770 aircraft. Previous failure at the aft lug of the centre brackets led to the issuance of Airbus Service Bulletin A300–57–0205.

In the most recent case, the aircraft had been modified in accordance with Airbus Service Bulletin A300–57–0205 (Airbus modification No. 04770). Investigations led by the manufacturer revealed that the centre hinge bracket developed a fatigue crack causing complete failure of the bracket. The tab rotated causing failure of the inboard link followed by the failure of the outboard link.

To avoid a detachment of a centre flap inner tab, which could be a potential risk to persons on [the] ground, this AD requires a repetitive [high frequency eddy current] inspection of the centre flap inner tab hinge bracket and replacement of the bracket when cracks are detected * * * [and] reporting of inspection results to the TC holder [and provides] an optional terminating action. * * *

* * * * *

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

Comments

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

Request for Clarification of Reporting Requirement

TradeWinds Airlines points out that although paragraph (e), ''Reason,'' of the NPRM describes reporting inspection results to the Type Certificate holder, the requirements in paragraphs (f)(1), (f)(2), and (f)(3) of the NPRM currently have no information that describes the reporting requirement.

We infer that TradeWinds Airlines is asking us to clarify the reporting requirement, and we agree that clarification is necessary. Paragraph (e) of the NPRM quotes European Aviation Safety Agency (EASA) AD 2007–0299R2, dated October 28, 2008. The EASA AD includes reporting; however, this AD does not require reporting. We have updated Note 1 of this final rule to clarify this difference. We also removed paragraph (g)(3) of the

proposed AD because that paragraph provides reporting requirement information and it is unnecessary to include that information in this final rule.

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 22 products of U.S. registry. We also estimate that it will take about 55 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $96,800, or $4,400 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–19–01 Airbus: Amendment 39–16018. Docket No. FAA–2009–0397; Directorate Identifier 2008–NM–023–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective October 14, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A300 B2–1C, B2–203, B2K–3C, B4–103, B4–203, and B4–2C airplanes, certificated in any category, all serial numbers, except airplanes which have been modified in accordance with Airbus Mandatory Service Bulletin A300–57–0252 (Airbus Modification 13400).

Subject

(d) Air Transport Association (ATA) of America Code 57: Wings.

Reason

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

An operator has reported the loss of a centre flap inner tab on an in-service A300 aircraft. The centre flap inner tab detached during approach to an airport. A similar event was reported several years ago on a pre-mod 04770 aircraft. Previous failure at the aft lug of the centre brackets led to the issuance of Airbus Service Bulletin A300–57–0205.

In the most recent case, the aircraft had been modified in accordance with Airbus Service Bulletin A300–57–0205 (Airbus modification No. 04770). Investigations led by the manufacturer revealed that the centre hinge bracket developed a fatigue crack causing complete failure of the bracket. The tab rotated causing failure of the inboard link followed by the failure of the outboard link.

To avoid a detachment of a centre flap inner tab, which could be a potential risk to persons on [the] ground, this AD requires a repetitive [high frequency eddy current] inspection of the centre flap inner tab hinge bracket and replacement of the bracket when cracks are detected * * * [and] reporting of inspection results to the TC holder [and provides] an optional terminating action. * * *

* * * * *

Actions and Compliance

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

(1) At the times specified in Table 1 or Table 2 of this AD, as applicable, perform a high frequency eddy current inspection to detect fatigue cracks of the center hinge bracket of the center flap inner tab (on both wings), in accordance with Airbus Mandatory Service Bulletin A300–57–0250, Revision 01, dated September 29, 2008. If no cracking is found, repeat the inspection thereafter at intervals not to exceed 850 flight cycles.

TABLE 1—AIRPLANES ON WHICH AIRBUS SERVICE BULLETIN A300–57–0205 HAS NOT BEEN DONE

Flight cycles accumulated since first flight as of the effective date of this AD	Compliance time
Less than 6,000 flight cycles	Prior to accumulating 6,000 flight cycles since first flight or within 90 days after the effective date of this AD, whichever occurs later.
6,000 flight cycles or more, but less than 12,000 flight cycles	Within 850 flight cycles after the effective date of this AD.
12,000 flight cycles or more	Within 500 flight cycles after the effective date of this AD.

TABLE 2—AIRPLANES ON WHICH AIRBUS SERVICE BULLETIN A300–57–0205 HAS BEEN DONE

Flight cycles accumulated since Airbus Service Bulletin A300–57–0205 modification as of the effective date of this AD	Compliance time
Less than 6,000 flight cycles	Prior to accumulating 6,000 flight cycles since Airbus Service Bulletin A300–57–0205 modification or within 90 days after the effective date of this AD, whichever occurs later.
6,000 flight cycles or more, but less than 12,000 flight cycles	Within 850 flight cycles after the effective date of this AD.
12,000 flight cycles or more	Within 500 flight cycles after the effective date of this AD.

(2) If any crack is detected during any inspection required by this AD, before further flight, replace the center hinge bracket in the accordance with Airbus Mandatory Service Bulletin A300–57–0250, Revision 01, dated September 29, 2008. Within 6,000 flight cycles after replacing the center hinge bracket, do the inspection required by paragraph (f)(1) of this AD, and if no cracking is found, repeat the inspection thereafter at intervals not to exceed 850 flight cycles.

(3) Modifying the inboard tab of the center flaps in accordance with Airbus Mandatory Service Bulletin A300–57–0252, dated August 27, 2008, terminates the requirements of this AD.

(4) Actions accomplished before the effective date of this AD in accordance with Airbus Mandatory Service Bulletin A300–57–0250, dated November 2, 2007, are considered acceptable for compliance with the corresponding actions specified in this AD.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: Although the European Aviation Safety Agency AD 2007–0299R2, dated October 28, 2008 and Airbus Mandatory Service Bulletin A300–57–0250, dated November 2, 2007, specify to submit certain information to the manufacturer, this AD does not include that requirement.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

(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.

Related Information

(h) Refer to MCAI Airworthiness Directive 2007–0299R2, dated October 28, 2008; Airbus Mandatory Service Bulletin A300–57–0250, Revision 01, dated September 29, 2008; and Airbus Mandatory Service Bulletin A300–57–0252, dated August 27, 2008; for related information.

Material Incorporated by Reference

(i) You must use Airbus Mandatory Service Bulletin A300–57–0250, Revision 01, excluding Appendix 1, dated September 29, 2008, to do the actions required by this AD, unless the AD specifies otherwise. If you do the optional terminating modification specified by this AD, you must use Airbus Service Bulletin A300–57–0252, dated August 27, 2008, to perform that action, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; e-mail *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com*.

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

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

Issued in Renton, Washington, on August 31, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–21411 Filed 9–8–09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0771; Directorate Identifier 2009–NE–14–AD; Amendment 39–16009; AD 2009–18–13]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc. (RR) RB211 Trent 900 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

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

Evidence from development testing and flight test Trent 900 engines has identified cracking on some HP Turbine Nozzle Guide

Vane (NGV) Convex Surfaces. Analysis of test data and review of the manufacturing process has revealed compounding effects that may contribute to a shortfall in component life and an increased likelihood of premature cracking in this region. Excessive cracking on the Convex Surface may lead to the release of NGV material or the blockage of Turbine gas flow. This results in a risk of fracture to the HP Turbine Blade.

We are issuing this AD to prevent the release of a high-pressure (HP) turbine blade, which could result in an engine power loss or in-flight shut down of one or more engines, resulting in an inability to continue safe flight.

DATES: This AD becomes effective October 14, 2009.

We must receive comments on this AD by October 9, 2009.

The Director of the Federal Register approved the incorporation by reference of RR Alert Service Bulletin (ASB) RB.211–72–AF995, Revision 2, dated February 9, 2009, listed in the AD as of September 24, 2009.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park; Burlington, MA 01803; e-mail: *ian.dargin@faa.gov*; telephone (781) 238–7178; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2009–0051, dated March 5, 2009 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Evidence from development testing and flight test Trent 900 engines has identified cracking on some HP Turbine Nozzle Guide Vane (NGV) Convex Surfaces. Analysis of test data and review of the manufacturing process has revealed compounding effects that may contribute to a shortfall in component life and an increased likelihood of premature cracking in this region. Excessive cracking on the Convex Surface may lead to the release of NGV material or the blockage of Turbine gas flow. This results in a risk of fracture to the HP Turbine Blade.
>
> Not all NGV assemblies are affected. It is believed that the problem, if it exists, will manifest itself below 1000 cycles.

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

Relevant Service Information

Rolls-Royce plc. has issued Alert Service Bulletin RB.211–72–AF995, Revision 2, dated February 9, 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

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

FAA's Determination of the Effective Date

Since no domestic operators use this product, notice and opportunity for public comment before issuing this AD are unnecessary. Therefore, we are adopting this regulation immediately.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0771; Directorate Identifier 2009–NE–14–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–18–13 Rolls-Royce plc: Amendment 39–16009.; Docket No. FAA–2009–0771; Directorate Identifier 2009–NE–14–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective October 14, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Rolls-Royce plc (RR) model RB211 Trent 970–84, 970B–84, 972–84, 972B–84, 977–84, 977B–84, and 980–84 turbofan engines that do not incorporate RR modification Service Bulletin (SB) RB.211–72–G025. These engines are installed on, but not limited to, Airbus A380 airplanes.

Reason

(d) Evidence from development testing and flight test Trent 900 engines has identified cracking on some HP Turbine Nozzle Guide Vane (NGV) Convex Surfaces. Analysis of test data and review of the manufacturing process has revealed compounding effects that may contribute to a shortfall in component life and an increased likelihood of premature cracking in this region. Excessive cracking on the Convex Surface may lead to the release of NGV material or the blockage of Turbine gas flow. This results in a risk of fracture to the HP Turbine Blade.

We are issuing this AD to prevent the release of a high-pressure (HP) turbine blade, which could result in an engine power loss or in-flight shut down of one or more engines, resulting in an inability to continue safe flight.

Actions and Compliance

First Inspection

(e) Before accumulating 400 total cycles, inspect the HPT NGV Convex Surfaces, in accordance with the accomplishment instructions in section 3.A of Rolls-Royce RB211–Trent 900 Alert Non Modification Service Bulletin (NMSB) RB.211–72–AF995 Revision 2, dated February 9, 2009.

Reinspection

(f) If no damage is identified at first inspection:

(1) Repeat the inspection at intervals less than 250 Cycles apart.

(2) If repeat inspections reveal no damage at 1000 cycles revert to normal inspection maintenance as detailed in the Rolls-Royce RB211–Trent 900 Maintenance Planning Document (MPD), and sign off this AD as complied with; no further inspections are required by this AD.

(g) If any damage is identified, refer to the Table 1 and Table 2 in section 3.B. of Rolls-Royce RB211–Trent 900 Alert NMSB RB.211–72–AF995 Revision 2, dated February 9, 2009, for reinspection intervals and rejection criteria.

FAA AD Differences

(h) None.

Other FAA AD Provisions

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

Related Information

(j) Refer to MCAI EASA Airworthiness Directive 2009–0051, dated March 5, 2009.

(k) Contact Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park; Burlington, MA 01803; e-mail: *ian.dargin@faa.gov*; telephone (781) 238–7178; fax (781) 238–7199, for more information about this AD.

Material Incorporated by Reference

(l) You must use RR Alert Non Mandatory Service Bulletin RB.211–72–AF995 Revision 2, dated February 9, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Rolls-Royce plc, P.O. Box 31, DERBY, DE24 8BJ, UK; telephone 44 (0) 1332 242424; fax 44 (0) 1332 249936.

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

Issued in Burlington, Massachusetts, on August 20, 2009.

Peter A. White,

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

[FR Doc. E9–20830 Filed 9–8–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0476; Directorate Identifier 2008–NM–188–AD; Amendment 39–16006; AD 2009–18–10]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 707 Airplanes, and Model 720 and 720B Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain Boeing Model 707 airplanes, and Model 720 and 720B series airplanes. The existing AD currently requires repetitive detailed inspections to detect cracks and corrosion on any existing repairs and at certain body stations (STA) of the visible surfaces of the wing to body terminal fittings including the web, flanges, and ribs; and applicable related investigative and corrective actions. This new AD retains the requirements of the existing AD and requires repetitive ultrasonic inspections to detect any stress corrosion cracks within the outboard flange of the left and right body terminal fittings at STA 820, and related investigative and corrective actions if necessary. This AD also provides an optional terminating action for the repetitive inspections. This AD also adds two airplanes to the applicability. This AD results from reports of cracks found in the wing to body terminal fittings during routine inspections. We are issuing this AD to detect and correct cracks and corrosion in the body terminal fittings above and below the floor, which could cause loss of support for the wing and could adversely affect the structural integrity of the airplane.

DATES: This AD becomes effective October 14, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of October 14, 2009.

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

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2008–17–10, amendment 39–15648 (73 FR 50703, August 28, 2008). The existing AD applies to certain Boeing Model 707 airplanes, and Model 720 and 720B series airplanes. That NPRM was published in the **Federal Register** on May 26, 2009 (74 FR 24715). That NPRM proposed to continue to require detailed inspections and applicable related investigative and corrective actions. That NPRM also proposed to require repetitive ultrasonic inspections to detect any stress corrosion cracks within the outboard flange of the left and right body terminal fittings at station (STA) 820, and related investigative and corrective actions if necessary. That NPRM also proposed an optional terminating action for the repetitive inspections. That NPRM also proposed to add two airplanes to the applicability.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comment that has been received on the NPRM. The commenter concurs with the content of the NPRM.

Conclusion

We have carefully reviewed the available data, including the comment that has been received, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

There are about 128 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per airplane	Number of U.S.-registered irplanes	Fleet cost
Inspections (required by AD 2008–17–10).	20	$80	$1,600 per inspection cycle.	11	$17,600 per inspection cycle.
Inspections (new required action).	20 to 30, depending on group.	80	$1,600 to $2,400 per inspection cycle.	Up to 13	Up to $31,200 per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–15648 (73 FR 50703, August 28, 2008) and by adding the following new airworthiness directive (AD):

2009–18–10 Boeing: Amendment 39–16006. Docket No. FAA–2009–0476; Directorate Identifier 2008–NM–188–AD.

Effective Date

(a) This AD becomes effective October 14, 2009.

Affected ADs

(b) This AD supersedes AD 2008–17–10, amendment 39–15648.

Applicability

(c) This AD applies to Boeing Model 707–100 long body, –200, –100B long body, and –100B short body series airplanes; Model 707–300, –300B, –300C, and –400 series airplanes; and Model 720 and 720B series airplanes; certificated in any category; as identified in Boeing 707 Alert Service Bulletin A3524, Revision 1, dated September 18, 2008.

Subject

(d) Air Transport Association (ATA) of America Code 57: Wings.

Unsafe Condition

(e) This AD results from new findings of cracks found in the wing to body terminal fittings during routine inspections. We are issuing this AD to detect and correct cracks and corrosion in the body terminal fittings above and below the floor, which could cause loss of support for the wing and could adversely affect the structural integrity of the airplane.

Compliance

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

Restatement of Requirements of AD 2008–17–10 With Updated Service Information

Inspections and Corrective Actions

(g) For airplanes identified in Boeing 707 Special Attention Service Bulletin 3524, dated July 18, 2007: Within 24 months after October 2, 2008 (the effective date of AD 2008–17–10), do detailed inspections and applicable related investigative and corrective actions, by accomplishing all the actions specified in the Accomplishment Instructions of Boeing 707 Special Attention Service Bulletin 3524, dated July 18, 2007; or Boeing 707 Alert Service Bulletin A3524, Revision 1, dated September 18, 2008; except as provided by paragraph (h) of this AD. After the effective date of this AD, use only Boeing 707 Alert Service Bulletin A3524, Revision 1, dated September 18, 2008. Repeat the detailed inspections thereafter at intervals not to exceed 24 months. Do all applicable related investigative and corrective actions before further flight.

(h) If any crack or corrosion is found during any inspection required by paragraph (g) of this AD, and Boeing 707 Special Attention Service Bulletin 3524, dated July 18, 2007, or Boeing 707 Alert Service Bulletin A3524, Revision 1, dated September 18, 2008, specifies to contact Boeing for appropriate action: Before further flight, repair the terminal fittings using a method approved in accordance with the procedures specified in paragraph (o) of this AD.

No Information Submission

(i) Although Boeing 707 Special Attention Service Bulletin 3524, dated July 18, 2007; and Boeing 707 Alert Service Bulletin A3524, Revision 1, dated September 18, 2008; specify to submit information to the manufacturer, this AD does not include that requirement.

New Requirements of This AD

Inspections

(j) For Group 1 and Group 2 airplanes identified in Boeing 707 Alert Service Bulletin A3524, Revision 1, dated September 18, 2008, on which a modification or repair was done in accordance with Boeing 707/720 Service Bulletin 2912, Revision 1, dated March 13, 1970: At the later of the times specified in paragraphs (j)(1) and (j)(2) of this AD, do an ultrasonic inspection to detect any stress corrosion cracks within the outboard flange of the left and right body terminal fittings at body station (STA) 820, and all applicable related investigative and corrective actions, by accomplishing all the actions specified in the Accomplishment Instructions of Boeing 707 Alert Service Bulletin A3524, Revision 1, dated September 18, 2008, except as provided by paragraph (m) of this AD. Repeat the ultrasonic inspection thereafter at intervals not to exceed 24 months or 2,000 flight cycles, whichever occurs first. Do all applicable related investigative and corrective actions before further flight.

(1) Within 24 months or 2,000 flight cycles after the effective date of this AD, whichever occurs first.

(2) Within 24 months or 2,000 flight cycles after doing the repair or modification, whichever occurs first.

(k) For Group 3 and Group 4 airplanes identified in Boeing 707 Alert Service Bulletin A3524, Revision 1, dated September 18, 2008: Within 2,000 flight cycles or 24 months after the effective date of this AD, whichever occurs first, do an ultrasonic inspection to detect any stress corrosion cracks within the outboard flange of the left and right body terminal fittings at STA 820, and all applicable corrective actions, by accomplishing all the actions specified in the Accomplishment Instructions of Boeing 707 Alert Service Bulletin A3524, Revision 1, dated September 18, 2008, except as provided by paragraph (m) of this AD. Repeat the ultrasonic inspection thereafter at intervals not to exceed 24 months or 2,000 flight cycles, whichever occurs first. Do all applicable corrective actions before further flight.

(l) For Group 4 airplanes identified in Boeing 707 Alert Service Bulletin A3524, Revision 1, dated September 18, 2008: Within 24 months after the effective date of this AD, do detailed inspections for corrosion and cracking of the body terminal fittings at STA 820, and all applicable related investigative and corrective actions, by accomplishing all the actions specified in the Accomplishment Instructions of Boeing 707 Alert Service Bulletin A3524, Revision 1, dated September 18, 2008, except as provided by paragraph (m) of this AD. Repeat the detailed inspections thereafter at intervals not to exceed 24 months. Do all applicable related investigative and corrective actions before further flight.

Exception to Certain Procedures

(m) If any crack or corrosion is found during any inspection required by paragraph (j), (k), or (l) of this AD, and Boeing 707 Alert Service Bulletin A3524, Revision 1, dated September 18, 2008, specifies to contact Boeing for appropriate action: Before further flight, repair the terminal fittings using a method approved in accordance with the procedures specified in paragraph (o) of this AD.

Note 1: Boeing 707 Alert Service Bulletin A3524, Revision 1, dated September 18, 2008, refers to Boeing 707/720 Service Bulletin 2912, Revision 1, dated March 13, 1970, as an additional source of guidance for doing certain inspections and repairs.

Optional Terminating Action

(n) Replacing a body terminal fitting with a fitting made from 7075–T73 material, using a method approved in accordance with the procedures specified in paragraph (o) of this AD, terminates the repetitive inspections required by this AD for that fitting only.

Alternative Methods of Compliance (AMOCs)

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

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

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

Material Incorporated by Reference

(p) You must use Boeing 707 Alert Service Bulletin A3524, Revision 1, dated September 18, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of

this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

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

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

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

Issued in Renton, Washington, on August 18, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–20838 Filed 9–8–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0515; Directorate Identifier 2008–NM–071–AD; Amendment 39–16007; AD 2009–18–11]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Series Airplanes

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

ACTION: Final rule.

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

Following a red illuminated ''DOOR NOT LOCKED'' status light indication on the door lock indication panel after lift off, the cabin crew operated the door lock handle. This resulted in inadvertent opening of the downward opening passenger door in flight. * * *

After inspection, it was found that the false red light might be the result of an incorrect clearance between lever Part Number (P/N) A26997–003 and the Up-Limit Switch. If the Up-Limit Switch has an incorrect clearance, the combination with cabin differential pressure build-up after lift-off might result in a false steady illuminating red ''DOOR NOT LOCKED'' indication on the Door Indication Panel. * * *

* * * * *

The unsafe condition is inadvertent opening of the door lock handle in flight, which could result in rapid decompression of the airplane or ejection of a passenger or crewmember through the door. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective October 14, 2009.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 14, 2009.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on June 9, 2009 (74 FR 27260). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Following a red illuminated ''DOOR NOT LOCKED'' status light indication on the door lock indication panel after lift off, the cabin crew operated the door lock handle. This resulted in inadvertent opening of the downward opening passenger door in flight. It appeared that the cabin crew was unaware of the content of Fokker 70/100 Service Letter (SL) 272. This SL informs not to operate the door lock handle after the aircraft has started to move or before it has come to a complete standstill.

After inspection, it was found that the false red light might be the result of an incorrect clearance between lever Part Number (P/N) A26997–003 and the Up-Limit Switch. If the Up-Limit Switch has an incorrect clearance, the combination with cabin differential pressure build-up after lift-off might result in a false steady illuminating red ''DOOR NOT LOCKED'' indication on the Door Indication Panel. The original Fokker Service Bulletin SBF100–52–044 and the associated Aircraft Maintenance Manual (AMM) task mentioned a clearance of 1,3 mm ± 0,3 mm. Later, based on a trial, an improved clearance of 0,3 mm ± 0,2 mm was introduced. Both documents have been revised for that reason. Later production serial number aircraft with downward opening passenger doors had the correct clearance introduced before delivery, but no action was taken to inspect and adjust the clearance on previously delivered or modified (per SBF100–52–044) serial numbers.

Since an unsafe condition has been identified that is likely to exist or develop on other aircraft of the same type design, this [EASA] Airworthiness Directive (AD) requires two actions:

—The installation of a warning placard near the status lights of the door lock indication panel, instructing the cabin crew not to operate the door handle during flight and to inform the flight crew of the ''DOOR NOT LOCKED'' indication; and

—A one-time inspection of the clearance between lever P/N A26997–003 and the Up-Limit Switch. If this clearance deviates from the limits given in AMM task 52–71–01–400–814–A, which is 0,3 mm ± 0,2 mm (0.0118 inch ± 0.0079 inch), corrective actions are required.

The unsafe condition is inadvertent opening of the door lock handle in flight, which could result in rapid decompression of the airplane or ejection of a passenger or crewmember through the door. The corrective action for improper clearance is adjusting the clearance between the lever and the up-limit switch. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 10 products of U.S. registry. We also estimate that it will take about 4 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $20 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $3,400, or $340 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–18–11 Fokker Services B.V.: Amendment 39–16007. Docket No. FAA–2009–0515; Directorate Identifier 2008–NM–071–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective October 14, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Fokker Model F.28 Mark 0070 and 0100 series airplanes, certificated in any category, equipped with a downward-opening ''airstair'' type passenger door.

Subject

(d) Air Transport Association (ATA) of America Codes 11 and 52: Placards and Markings, and Doors, respectively.

Reason

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

''Following a red illuminated ''DOOR NOT LOCKED'' status light indication on the door lock indication panel after lift off, the cabin crew operated the door lock handle. This resulted in inadvertent opening of the downward opening passenger door in flight. It appeared that the cabin crew was unaware of the content of Fokker 70/100 Service Letter (SL) 272. This SL informs not to operate the door lock handle after the aircraft has started to move or before it has come to a complete standstill.

''After inspection, it was found that the false red light might be the result of an incorrect clearance between lever Part Number (P/N) A26997–003 and the Up-Limit Switch. If the Up-Limit Switch has an incorrect clearance, the combination with cabin differential pressure build-up after lift-off might result in a false steady illuminating red ''DOOR NOT LOCKED'' indication on the Door Indication Panel. The original Fokker Service Bulletin SBF100–52–044 and the associated Aircraft Maintenance Manual (AMM) task mentioned a clearance of 1,3 mm ± 0,3 mm. Later, based on a trial, an improved clearance of 0,3 mm ± 0,2 mm was introduced. Both documents have been revised for that reason. Later production serial number aircraft with downward opening passenger doors had the correct clearance introduced before delivery, but no action was taken to inspect and adjust the clearance on previously delivered or modified (per SBF100–52–044) serial numbers.

''Since an unsafe condition has been identified that is likely to exist or develop on other aircraft of the same type design, this [EASA] Airworthiness Directive (AD) requires two actions:

—The installation of a warning placard near the status lights of the door lock indication panel, instructing the cabin crew not to operate the door handle during flight and to inform the flight crew of the ''DOOR NOT LOCKED'' indication; and

—A one-time inspection of the clearance between lever P/N A26997–003 and the Up-Limit Switch. If this clearance deviates from the limits given in AMM task 52–71–01–400–814–A, which is 0,3 mm ± 0,2 mm (0.0118 inch ± 0.0079 inch), corrective actions are required.''

The unsafe condition is inadvertent opening of the door lock handle in flight, which could result in rapid decompression of the airplane or ejection of a passenger or crewmember through the door. The corrective action for improper clearance is adjusting the clearance between the lever and the up-limit switch.

Actions and Compliance

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

(1) Within 500 flight cycles or 4 months after the effective date of this AD, whichever occurs first, install a new warning placard near the status lights of the panel of the door lock indication, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–11–025, Revision 1, dated December 13, 2007.

(2) Within 4,000 flight cycles after the effective date of this AD, do a one-time

inspection of the clearance between lever P/N A26997–003 and the up-limit switch, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–52–086, dated November 1, 2007.

(3) If any clearance is found outside the range defined in Fokker Service Bulletin SBF100–52–086, dated November 1, 2007, during the inspection required by paragraph (f)(2) of this AD, before further flight, correct the clearance in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100–52–086, dated November 1, 2007.

(4) If done before the effective date of this AD, installing the warning placard near the status lights of the panel of the door lock indication, in accordance with Fokker Service Bulletin SBF100–11–025, dated November 1, 2007, is acceptable for compliance with the requirements of paragraph (f)(1) of this AD.

(5) Modifying the airplane in accordance with Fokker Service Bulletin SBF100–52–044, Revision 1, dated November 1, 2007, terminates the requirements of paragraph (f)(2) of this AD.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows:

Note 1 of the ''Compliance'' section of European Aviation Safety Agency (EASA) Airworthiness Directive 2008–0020, dated January 28, 2008, states that any airplane that has not yet been modified in accordance with Fokker Service Bulletin SBF100–52–069, dated December 3, 2001, must be modified prior to or concurrently with paragraph (f)(1) of this AD. However, all U.S. airplanes have met this requirement with the issuance of AD 2006–03–07, amendment 39–14471; therefore, modification in accordance with Fokker Service Bulletin SBF100–52–069, dated December 3, 2001, is not applicable.

Other FAA AD Provisions

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

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

(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, 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 EASA Airworthiness Directive 2008–0020, dated January 28, 2008; Fokker Service Bulletin SBF100–11–025, Revision 1, dated December 13, 2007; and Fokker Service Bulletin SBF100–52–086, dated November 1, 2007; for related information.

Material Incorporated by Reference

(i) You must use Fokker Service Bulletin SBF100–11–025, Revision 1, dated December 13, 2007; and Fokker Service Bulletin SBF100–52–086, dated November 1, 2007; as applicable; to do the actions required by this AD, unless the AD specifies otherwise. If you accomplish the optional modification specified in paragraph (f)(5) of this AD, you must use Fokker Service Bulletin SBF100–52–044, Revision 1, dated November 1, 2007, to perform that modification, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands; telephone +31 (0)252–627–350; fax +31 (0)252–627–211; e-mail *technicalservices.fokkerservices@stork.com;* Internet *http://www.myfokkerfleet.com.*

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

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

Issued in Renton, Washington, on August 18, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–20834 Filed 9–8–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0786; Directorate Identifier 2009–NM–145–AD; Amendment 39–16014; AD 2009–18–18]

RIN 2120–AA64

Airworthiness Directives; ATR Model ATR42 and ATR72 Airplanes

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

ACTION: Final rule; request for comments.

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

A recent event occurred during which the LH [left-hand] forward side glass window of an ATR 72–212 aeroplane blew out while performing a ground pressure test.

The investigation revealed some anomalies on the forward side window at the level of the Z-bar on the windows external side and at the level of the inner retainer on the windows internal side. These anomalies are considered as precursors of this failure.

* * * * *

An in-flight loss of a forward side window could have catastrophic consequences for the aeroplane and/or cause injuries to people on the ground. The loss of the forward side window while the aeroplane is on the ground with a positive differential cabin pressure could also cause injuries to people inside or around the aeroplane.

* * * * *

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective September 24, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of September 24, 2009.

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

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for Member States of the European Community, has issued EASA Emergency Airworthiness Directive 2009–0159–E, dated July 20, 2009 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> A recent event occurred during which the LH [left-hand] forward side glass window of an ATR 72–212 aeroplane blew out while performing a ground pressure test.
>
> The investigation revealed some anomalies on the forward side window at the level of the Z-bar on the windows external side and at the level of the inner retainer on the windows internal side. These anomalies are considered as precursors of this failure.
>
> Air or water leakages between the Z-bar and the outer glass ply, or between the inner retainer and inner glass ply indicates the presence of deteriorating structural components in the window.
>
> It must also be noticed that neither ATR nor PPG Aerospace authorizes repairs on the window Z-bar/Z-bar sealant.
>
> Any attempted repairs on these forward side window Z-bars/Z-bar sealants could lead to a similar event that has originated this AD.
>
> An in-flight loss of a forward side window could have catastrophic consequences for the aeroplane and/or cause injuries to people on the ground. The loss of the forward side window while the aeroplane is on the ground with a positive differential cabin pressure could also cause injuries to people inside or around the aeroplane.
>
> Accordingly, this AD mandates initial and repetitive inspections of LH and RH [right-hand] cockpit forward side glass windows and in case of discrepancies, the replacement of the window(s).
>
> Remark: Acrylic-based cockpit forward side windows are not concerned by this AD.

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

Relevant Service Information

PPG Aerospace has issued Service Bulletin NP–158862–001, dated July 8, 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

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

Differences Between the AD and the MCAI or Service Information

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

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because an in-flight loss of a forward side window could have catastrophic consequences for the airplane or cause injuries to people on the ground. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0786; Directorate Identifier 2009–NM–145–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–18–18 ATR—GIE Avions De Transport Régional (Formerly Aerospatiale): Amendment 39–16014. Docket No. FAA–2009–0786; Directorate Identifier 2009–NM–145–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective September 24, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to ATR Model ATR42–200, –300, –320, and –500 airplanes and Model ATR72–101, –201, –102, –202, –211, –212, and –212A airplanes; certificated in any category; that are equipped with any PPG Aerospace cockpit forward side glass window having part number (P/N) NP–158862–1 or NP–158862–2.

Subject

(d) Air Transport Association (ATA) of America Code 56: Windows.

Reason

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

A recent event occurred during which the LH [left-hand] forward side glass window of an ATR 72–212 aeroplane blew out while performing a ground pressure test.

The investigation revealed some anomalies on the forward side window at the level of the Z-bar on the windows external side and at the level of the inner retainer on the windows internal side. These anomalies are considered as precursors of this failure.

Air or water leakages between the Z-bar and the outer glass ply, or between the inner retainer and inner glass ply indicates the presence of deteriorating structural components in the window.

It must also be noticed that neither ATR nor PPG Aerospace authorizes repairs on the window Z-bar/Z-bar sealant.

Any attempted repairs on these forward side window Z-bars/Z-bar sealants could lead to a similar event that has originated this AD.

An in-flight loss of a forward side window could have catastrophic consequences for the aeroplane and/or cause injuries to people on the ground. The loss of the forward side window while the aeroplane is on the ground with a positive differential cabin pressure could also cause injuries to people inside or around the aeroplane.

Accordingly, this AD mandates initial and repetitive inspections of LH and RH [right-hand] cockpit forward side glass windows and in case of discrepancies, the replacement of the window(s).

Remark: Acrylic-based cockpit forward side windows are not concerned by this AD.

Actions and Compliance

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

(1) Prior to the accumulation of 2,000 total flight cycles on any cockpit forward side window, or within 10 days after the effective date of this AD, whichever occurs later, inspect for damage and absence of repair of the cockpit forward side windows, in accordance with the Accomplishment Instructions of PPG Aerospace Service Bulletin NP–158862–001, dated July 8, 2009. If the total flight cycles on a given cockpit forward side window installed on an airplane cannot be established, the total flight cycles accumulated on the airplane must be used in determining the initial inspection time for the cockpit forward side window.

(i) If any discrepant condition, as defined in PPG Aerospace Service Bulletin NP–158862–001, dated July 8, 2009, is found: Replace the window, in accordance with a method approved by the Manager, ANM–116, International Branch, Transport Airplane Directorate, FAA, or EASA (or its delegated agent), before further pressurized flight or within 10 days after the inspection, whichever occurs first.

Note 1: Guidance on replacing windows may be found in ATR (ATR42) Aircraft Maintenance Manual (AMM) Job Instruction Card (JIC) 56–12–00 RAI 10000–011, dated February 2008; and ATR ATR72 AMM JIC 56–12–00 RAI 10000–001, dated April 2008.

Note 2: Guidance on unpressurized flight conditions and limitations may be found in Section 21–30–1, dated February 2008, of the ATR Master Minimum Equipment List; and Section 21–30–1, dated February 2008, of the ATR Dispatch Deviation Guide.

(ii) If one of the conditions identified in paragraphs (f)(1)(ii)(a), (f)(1)(ii)(b), and (f)(1)(ii)(c) of this AD is found: Within 50 flight cycles or 7 days after the inspection required by paragraph (f)(1) of this AD, whichever occurs later, repeat the inspection required in paragraph (f)(1) of this AD. Re-inspect at intervals not to exceed 50 flight cycles or 7 days, whichever occurs later. When any discrepant condition, as defined in PPG Aerospace Service Bulletin NP–158862–001, dated July 8, 2009, is found: Replace the window, in accordance with a method approved by the Manager, ANM–116, International Branch, Transport Airplane Directorate, FAA, or EASA (or its delegated agent), before further pressurized flight or within 10 days after the inspection, whichever occurs first.

(a) Sealant separation between the Z-bar and the outer glass ply, with depth less than or equal to 4 mm (0.160 in).

(b) Sealant separation between inboard retainer and inner glass ply, with depth less than or equal to 7.5 mm (0.300 in) and cumulative length less than or equal to 300 mm (12.000 in).

(c) Window showing both sealant separation between the Z-bar and the outer ply, and separation between inboard retainer and inner glass ply, common to the same hole location with a length less than or equal to 225 mm (8.860 in), and not covering the entire arc of a window corner.

(iii) If no discrepancy is found: Re-inspect the cockpit forward side windows at intervals not to exceed 550 flight hours, in accordance with the Accomplishment Instructions of PPG Aerospace Service Bulletin NP–158862–001, dated July 8, 2009. When any discrepant condition, as defined in PPG Aerospace Service Bulletin NP–158862–001, dated July 8, 2009, is found: Replace the window, in accordance with a method approved by the Manager, ANM–116, International Branch, Transport Airplane Directorate, FAA, or EASA (or its delegated agent), before further pressurized flight or within 10 days after the inspection, whichever occurs first.

(2) Within 30 days after any inspection when damage or a discrepancy is found or within 30 days after the effective date of this AD, whichever occurs later, submit a detailed report of the findings to ATR in accordance with PPG Aerospace Service Bulletin NP–158862–001, dated July 8, 2009.

FAA AD Differences

Note 3: 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, ANM–116, International Branch. Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

The AMOC approval letter must specifically reference this AD.

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

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

(4) Special Flight Permits: We are permitting special flight permits provided that the airplane is unpressurized during flight.

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) Emergency Airworthiness Directive 2009–0159–E, dated July 20, 2009; and PPG Aerospace Service Bulletin NP–158862–001, dated July 8, 2009; for related information.

Material Incorporated by Reference

(i) You must use PPG Aerospace Service Bulletin NP–158862–001, dated July 8, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact PPG Aerospace, 12780 San Fernando Road, Sylmar, California 91342; telephone 818–362–6711; fax 818–362–0603; Internet *http://corporateportal.ppg.com/na/aerospace.*

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

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

Issued in Renton, Washington, on August 26, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–21312 Filed 9–8–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0522; Directorate Identifier 2008–NM–127–AD; Amendment 39–16010; AD 2009–18–14]

RIN 2120–AA64

Airworthiness Directives; 328 Support Services GmbH Dornier Model 328–100 and –300 Airplanes

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

ACTION: Final rule.

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

* * * A number of * * * rudder spring tab lever assemblies [of the rudder] were found cracked.

This condition, if not corrected, could lead to failure of the rudder flight control system and consequent loss of control of the aircraft. * * *

* * * * *

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

DATES: This AD becomes effective October 14, 2009.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 14, 2009.

On June 9, 2004 (69 FR 24953, May 5, 2004), the Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on June 9, 2009 (74 FR 27257), and proposed to supersede AD 2004–09–16, Amendment 39–13605 (69 FR 24953, May 5, 2004). (A correction of that AD was published in the **Federal Register** on May 12, 2004 (69 FR 26434)). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

On 14 March 2002, an incident occurred with a Dornier 328–100 where the captain reported that the rudder was unresponsive. The aircraft landed without any further difficulties. A visual inspection of the rudder assembly was carried out and the spring tab assembly was found to be cracked and partially missing. During subsequent inspections of other aircraft, a number of additional rudder spring tab lever assemblies were found cracked.

This condition, if not corrected, could lead to failure of the rudder flight control system and consequent loss of control of the aircraft. To address and correct this unsafe condition, LBA (Luftfahrt-Bundesamt) issued AD 2003–383 and 2003–384 [which correspond to FAA AD 2004–09–16] for the Dornier 328–100 and 328–300 respectively, to require the initial and repetitive inspection of the rudder spring tab lever assembly and, in case cracks were found, the replacement of the rudder spring tab lever assembly with a serviceable unit.

The current TC (type certificate) holder of this type design, 328 Support Services GmbH, has recently published Alert Service Bulletin ASB–328–27–036, Revision 2, which reduces the inspection interval to A-check [400 FH] (400 flight hours). In addition, Service Bulletin SB–328–27–459 was revised to change the compliance status from 'optional' to 'mandatory' and instructs operators to replace the rudder spring tab lever assembly with an improved unit P/N (part number) 001A272A4020–004, ending the need for the repetitive inspections.

For the reasons described above, this EASA AD retains the repetitive inspection requirements of LBA AD 2003–383, which is superseded, expands the applicability to all serial numbers, reduces the inspection interval to 400 [flight hours], and requires the replacement of the rudder spring tab lever assembly with an improved unit P/N 001A272A4020–004, as specified in SB–328–27–459.

The material used for the rudder spring tab lever assemblies on Model 328–100 airplanes differs from the material used for the rudder spring tab lever assemblies on Model 328–300 airplanes. Therefore, Model 328–300 airplanes are not affected by the new requirements in this AD. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Explanation of Change to Final Rule

This AD does not require reporting crack findings to the manufacturer. Therefore, we have removed paragraph (m)(3) of the proposed AD because the reporting requirements information in that paragraph is not necessary.

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this AD affects about 112 products of U.S. registry.

The actions that are required by AD 2004–09–16 and retained in this AD affect 112 products of U.S. registry and take 1 work-hour per product, at an average labor rate of $80 per work-hour. Based on these figures, the estimated cost of the currently required actions is $8,960, or $80 per product, per inspection cycle.

We estimate that it will take 3 work-hours per product to comply with the new basic requirements of this AD and it will affect 16 products of U.S. registry. The average labor rate is $80 per work-hour. Required parts will cost about $12,861 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the AD on U.S. operators to be $209,616, or $13,101 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–13605 (69 FR 24953, May 5, 2004), and adding the following new AD:

2009–18–14 328 Support Services GmbH (Formerly, AvCraft Aerospace GmbH, formerly Fairchild Dornier GmbH, formerly Dornier Luftfahrt GmbH): Amendment 39–16010. Docket No. FAA–2009–0522; Directorate Identifier 2008–NM–127–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective October 14, 2009.

Affected ADs

(b) This AD supersedes AD 2004–09–16, Amendment 39–13605.

Applicability

(c) This AD applies to 328 Support Services GmbH Dornier Model 328–100 airplanes on which a rudder spring tab lever assembly having part number 001A272A4020–002 is installed, and all Model 328–300 airplanes.

Subject

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

Reason

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

On 14 March 2002, an incident occurred with a Dornier 328–100 where the captain reported that the rudder was unresponsive. The aircraft landed without any further difficulties. A visual inspection of the rudder assembly was carried out and the spring tab assembly was found to be cracked and partially missing. During subsequent inspections of other aircraft, a number of additional rudder spring tab lever assemblies were found cracked.

This condition, if not corrected, could lead to failure of the rudder flight control system and consequent loss of control of the aircraft. To address and correct this unsafe condition, LBA (Luftfahrt-Bundesamt) issued AD 2003–383 and 2003–384 [which correspond to FAA

AD 2004–09–16] for the Dornier 328–100 and 328–300 respectively, to require the initial and repetitive inspection of the rudder spring tab lever assembly and, in case cracks were found, the replacement of the rudder spring tab lever assembly with a serviceable unit.

The current TC (type certificate) holder of this type design, 328 Support Services GmbH, has recently published Alert Service Bulletin ASB–328–27–036, Revision 2, which reduces the inspection interval to A-check [400 FH] (400 flight hours). In addition, Service Bulletin SB–328–27–459 was revised to change the compliance status from 'optional' to 'mandatory' and instructs operators to replace the rudder spring tab lever assembly with an improved unit P/N (part number) 001A272A4020–004, ending the need for the repetitive inspections.

For the reasons described above, this EASA AD retains the repetitive inspection requirements of LBA AD 2003–383, which is superseded, expands the applicability to all serial numbers, reduces the inspection interval to 400 [flight hours], and requires the replacement of the rudder spring tab lever assembly with an improved unit P/N 001A272A4020–004, as specified in SB–328–27–459.

Compliance

(f) Required as indicated, unless accomplished previously.

Restatement of Requirements of AD 2004–09–16, Including Repetitive Inspections With Reduced Intervals for Model 328–100 Airplanes

(g) For all airplanes: Within 400 flight hours or 2 months after June 9, 2004 (the effective date of AD 2004–09–16), whichever is first; do detailed and eddy current inspections for cracking of the bearing lugs of the rudder spring tab lever assembly by doing all the actions per Paragraphs 2.A., 2.B., and 2.D. of the Accomplishment Instructions of Dornier Alert Service Bulletin ASB–328–27–036 (for Model 328–100 airplanes), dated February 12, 2003, or Revision 3, dated February 8, 2008; or Dornier Alert Service Bulletin ASB–328J–27–013 (for Model 328–300 airplanes), dated February 12, 2003; as applicable.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(1) For Model 328–100 airplanes: If no cracking is found during any inspection required by paragraph (g) of this AD, do the next inspection within 400 flight hours after doing the last inspection, or within 400 flight hours after the effective date of this AD, whichever occurs later; and repeat the inspection thereafter at intervals not to exceed 400 flight hours. Repeat the inspections until the replacement required by paragraph (k) of this AD has been done.

(2) For Model 328–300 airplanes: If no cracking is found during any inspection required by paragraph (g) of this AD, repeat the inspections thereafter at intervals not to exceed 24 months.

Corrective Action

(h) For all airplanes: If any cracking is found during any inspection required by paragraph (g) of this AD, do the applicable actions specified in paragraph (h)(1) or (h)(2) of this AD.

(1) For Model 328–100 airplanes: Before further flight, do the replacement required by paragraph (k) of this AD, or replace the spring tab lever assembly with a new assembly by doing all the actions per Paragraph 2.C. of the Accomplishment Instructions of Dornier Alert Service Bulletin ASB–328–27–036, dated February 12, 2003; or Revision 3, dated February 8, 2008.

(2) For Model 328–300 airplanes: Before further flight, replace the spring tab lever assembly with a new assembly by doing all the actions per Paragraph 2.C. of the Accomplishment Instructions of Dornier Alert Service Bulletin ASB–328J–27–013, dated February 12, 2003. Repeat the inspections required by paragraph (g) of this AD thereafter at intervals not to exceed 24 months.

Note 2: For Model 328–300 airplanes: There is no terminating action available for the repetitive inspections required by this AD.

(i) Dornier Alert Service Bulletins ASB–328–27–036, dated February 12, 2003, and Revision 3, dated February 8, 2008; and ASB–328J–27–013, dated February 12, 2003; recommend reporting crack findings and returning damaged lever assemblies to the manufacturer, but this AD does not contain such requirements.

New Requirements of This AD: Actions and Compliance

(j) For Model 328–100 airplanes: As of the effective date of this AD, Dornier Alert Service Bulletin ASB–328–27–036, Revision 3, dated February 8, 2008, must be used for accomplishing the inspections and corrective actions required by paragraphs (g) and (h) of this AD.

(k) For Model 328–100 airplanes: Within 6 months after the effective date of this AD, replace any rudder spring tab lever assembly having P/N 001A272A4020–002 with an improved unit having P/N 001A272A4020–004, in accordance with the Accomplishment Instructions of Dornier Service Bulletin SB–328–27–459, Revision 2, dated February 8, 2008. Accomplishment of the replacement required by this paragraph terminates the repetitive inspections required by paragraph (g)(1) of this AD.

(l) Actions done before the effective date of this AD in accordance with Dornier Service Bulletin SB–328–27–459, dated May 3, 2004; or Revision 1, dated January 24, 2008; are acceptable for compliance with the corresponding requirements of this AD for Model 328–100 airplanes. Actions done before the effective date of this AD in accordance with Dornier Alert Service Bulletin ASB–328–27–036, Revision 1, dated May 7, 2004; or Revision 2, dated January 24, 2008; are acceptable for compliance with the corresponding requirements of this AD for Model 328–300 airplanes.

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

(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.

Related Information

(n) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2008–0107, dated June 23, 2008; German Airworthiness Directive 2003–384, dated November 13, 2003; and the service information contained in Table 1 of this AD, for related information.

TABLE 1—RELATED SERVICE INFORMATION

Document	Revision	Date
Dornier Alert Service Bulletin ASB–328–27–036	3	February 8, 2008.
Dornier Alert Service Bulletin ASB–328J–27–013	Original	February 12, 2003.
Dornier Service Bulletin SB–328–27–459	2	February 8, 2008.

Material Incorporated by Reference

(o) You must use the applicable service information contained in Table 2 of this AD to do the actions required by this AD, unless the AD specifies otherwise. (The issue date of Dornier Alert Service Bulletin ASB–328–27–036, Revision 3, dated February 8, 2008; and Dornier Service Bulletin SB–328–27–459, Revision 2, dated February 8, 2008; is specified only on the odd-numbered pages of these documents.)

TABLE 2—MATERIAL INCORPORATED BY REFERENCE

Document	Revision	Date
Dornier Alert Service Bulletin ASB–328–27–036	3	February 8, 2008.
Dornier Alert Service Bulletin ASB–328J–27–013	Original	February 12, 2003.
Dornier Service Bulletin SB–328–27–459	2	February 8, 2008.

(1) The Director of the Federal Register approved the incorporation by reference of Dornier Alert Service Bulletin ASB–328–27–036, Revision 3, dated February 8, 2008; and Dornier Service Bulletin SB–328–27–459, Revision 2, dated February 8, 2008; under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The Director of the Federal Register previously approved the incorporation by reference of the Dornier Alert Service Bulletin ASB–328J–27–013, dated February 12, 2003, on June 9, 2004 (69 FR 24953, May 5, 2004).

(3) For service information identified in this AD, contact 328 Support Services GmbH, Global Support Center, P.O. Box 1252, D–82231 Wessling, Federal Republic of Germany; telephone +49 8153 88111 6666; fax +49 8153 88111 6565; e-mail *gsc.op@328support.de;* Internet *http://www.328support.de.*

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

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

Issued in Renton, Washington, on August 24, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–21035 Filed 9–8–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0465; Directorate Identifier 2007–NM–244–AD; Amendment 39–16012; AD 2009–18–16]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 Airplanes

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

ACTION: Final rule.

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

DGAC [Direction Générale de l'Aviation Civile] France issued AD F–2005–078 [which corresponds to FAA AD 2006–02–06] to require the modification (Airbus modification 13023), defined in Airbus SB [service bulletin] A310–53–2124, to increase the service life of junctions of center box upper frame bases to upper fuselage arches. This structural modification falls within the scope of the work related to the extension of the service life of A310 aircraft and widespread fatigue damage evaluations.

The threshold timescales for accomplishment of the tasks as defined in SB A310–53–2124 were refined and reduced.

* * *

* * * * *

The unsafe condition is fatigue cracking of the frame foot run-outs, which could lead to rupture of the frame foot and cracking in adjacent frames and skin, and which could result in reduced structural integrity of the fuselage. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective October 14, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 14, 2009.

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

FOR FURTHER INFORMATION CONTACT: Tom Stafford, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1622; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on June 2, 2009 (74 FR 26312), and proposed to supersede AD 2006–02–06, Amendment 39–14458 (71 FR 3214, January 20, 2006). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

DGAC [Direction Générale de l'Aviation Civile] France issued AD F–2005–078 [which corresponds to FAA AD 2006–02–06, Amendment 39–14458, 71 FR 3214, January 20, 2006] to require the modification (Airbus modification 13023), defined in Airbus SB [service bulletin] A310–53–2124, to increase the service life of junctions of center box upper frame bases to upper fuselage arches. This structural modification falls within the scope of the work related to the extension of the service life of A310 aircraft and widespread fatigue damage evaluations.

The threshold timescales for accomplishment of the tasks as defined in SB A310–53–2124 were refined and reduced. Consequently, EASA issued AD 2007–0238 to require compliance with Revision 1 of SB A310–53–2124 at the reduced compliance times, superseding (the requirements of) DGAC France AD F–2005–078. Subsequently,

Airbus identified reference material that was erroneously introduced into Airbus SB A310–53–2124 Revision 1. As a result, the SB instructions could not be accomplished properly. Operators that tried to apply SB A310–53–2124 at Revision 1 had to contact Airbus; see also Airbus SBIT [service bulletin information telex] ref. 914.0135/08, dated 03 March 2008.

Consequently, AD 2007–0238 was revised to exclude reference to Airbus SB A310–53–2124 Revision 1 and to require accomplishment of the task(s) as described in the original SB A310–53–2124 instead, although retaining the reduced compliance times introduced by AD 2007–0238 at original issue. This new [EASA] AD is published to refer to Airbus SB A310–53–2124 Revision 02, the corrected version that is to be used to meet the requirements of this AD.

The unsafe condition is fatigue cracking of the frame foot run-outs, which could lead to rupture of the frame foot and cracking in adjacent frames and skin, and which could result in reduced structural integrity of the fuselage. The required actions include inspecting by rotating probe for cracking of holes H1 through H29 on frame (FR) 43 through 46 inclusive, and inspecting holes H1 through H29 on FR 43 through 46 inclusive to determine the edge distance of the hole, and corrective actions if necessary. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Request To Remove Reference to Modification 13023 From Paragraph (c) of This AD

Airbus requests we remove the reference to modification 13023 from paragraph (c), Applicability, of the NPRM. The NPRM would have applied to certain Airbus airplanes, except those on which Airbus Mandatory Service Bulletin A310–53–2124, Revision 02, dated May 22, 2008, has been accomplished, or those on which Airbus modification 13023 has been accomplished in production. The commenter, Airbus, states that modification 13023 is a retrofit modification only and was never embodied in production. Modification 13023 is directly associated with Airbus Mandatory Service Bulletin A310–53–2124.

We agree, for the reasons provided by the commenter. We have revised this final rule accordingly.

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect about 68 products of U.S. registry.

The actions that are required by AD 2006–02–06 and retained in this AD take about 31 work-hours per product, at an average labor rate of $80 per work hour. Required parts cost about $1,730 per product. Based on these figures, the estimated cost of the currently required actions is $4,210 per product.

We estimate that it will take about 41 work-hours per product to comply with the new basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $4,400 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $522,240, or $7,680 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–14458 (71 FR 3214, January 20, 2006) and adding the following new AD:

2009–18–16 Airbus: Amendment 39–16012. Docket No. FAA–2009–0465; Directorate Identifier 2007–NM–244–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective October 14, 2009.

Affected ADs

(b) This AD supersedes AD 2006–02–06, Amendment 39–14458.

Applicability

(c) This AD applies to Airbus Model A310–203, –204, –221, –222, –304, –322, –324 and –325 airplanes; all serial numbers; certificated in any category; except those airplanes on which Airbus Mandatory Service Bulletin A310–53–2124, dated April 4, 2005, has been accomplished.

Subject

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

Reason

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

DGAC [Direction Générale de l'Aviation Civile] France issued AD F–2005–078 [which corresponds to FAA AD 2006–02–06, Amendment 39–14458, 71 FR 3214, January 20, 2006] to require the modification (Airbus modification 13023), defined in Airbus SB [service bulletin] A310–53–2124, to increase the service life of junctions of center box upper frame bases to upper fuselage arches. This structural modification falls within the scope of the work related to the extension of the service life of A310 aircraft and widespread fatigue damage evaluations.

The threshold timescales for accomplishment of the tasks as defined in SB A310–53–2124 were refined and reduced. Consequently, EASA issued AD 2007–0238 to require compliance with Revision 1 of SB A310–53–2124 at the reduced compliance times, superseding (the requirements of) DGAC France AD F–2005–078. Subsequently, Airbus identified reference material that was erroneously introduced into Airbus SB A310–53–2124 Revision 1. As a result, the SB instructions could not be accomplished properly. Operators that tried to apply SB A310–53–2124 at Revision 1 had to contact Airbus; see also Airbus SBIT [service bulletin information telex] ref. 914.0135/08, dated 03 March 2008.

Consequently, AD 2007–0238 was revised to exclude reference to Airbus SB A310–53–2124 Revision 1 and to require accomplishment of the task(s) as described in the original SB A310–53–2124 instead, although retaining the reduced compliance times introduced by AD 2007–0238 at original issue. This new [EASA] AD is published to refer to Airbus SB A310–53–2124 Revision 02, the corrected version that is to be used to meet the requirements of this AD.

The unsafe condition is fatigue cracking of the frame foot run-outs, which could lead to rupture of the frame foot and cracking in adjacent frames and skin, and which could result in reduced structural integrity of the fuselage. The required actions include inspecting by rotating probe for cracking of holes H1 through H29 on frame (FR) 43 through 46 inclusive, and inspecting holes H1 through H29 on FR 43 through 46 inclusive to determine the edge distance of the hole, and corrective actions if necessary.

Requirements of This AD: Actions and Compliance

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

(1) Except for airplanes identified in paragraph (f)(2) of this AD, at the later of the times specified in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD, accomplish inspections by rotating probe for cracking of holes H1 through H29 on frame FR 43 through 46 inclusive, and inspections of holes H1 through H29 on FR 43 through 46 inclusive to determine the edge distance of the hole, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A310–53–2124, Revision 02, dated May 22, 2008 (''the service bulletin''). If no cracking is found and the edge distance is equal to or greater than the distance specified in the Accomplishment Instructions of the service bulletin, before further flight, do the cold expansion of the most fatigue sensitive fastener holes, as identified in the service bulletin.

(i) Inspect at the applicable time indicated in Table 1 of this AD. Airbus Model A310–304, –322, –324, and –325 airplanes with an average flight time (AFT) equal to or less than 3.17 flight hours are short range airplanes. Airbus Model A310–304, –322, –324, and –325 airplanes with an AFT exceeding 3.17 flight hours are long range airplanes.

(ii) Within 500 flight cycles or 800 flight hours after the effective date of this AD, whichever occurs first.

TABLE 1—COMPLIANCE TIMES

Affected Airplanes	Inspection/Modification Threshold, whichever occurs later	
Model A310–304, –322, –324 and –325 short range airplanes.	Prior to accumulation of 26,500 flight cycles or 74,300 flight hours since first flight of the airplane, whichever occurs first.	Within 3,000 flight cycles after the effective date of this AD, without exceeding 29,200 flight cycles or 81,800 flight hours since first flight, whichever occurs first.
Model A310–304, –322, –324 and –325 long range airplanes.	Prior to accumulation of 23,400 flight cycles or 117,100 flight hours since first flight of the airplane, whichever occurs first.	Within 3,000 flight cycles after the effective date of this AD, without exceeding 25,800 flight cycles or 129,000 flight hours since first flight, whichever occurs first.
Model A310–203, –204, –221, and A310–222 ..	Prior to accumulation of 23,400 flight cycles or 46,800 flight hours since first flight of the airplane, whichever occurs first.	Within 3,000 flight cycles after the effective date of this AD, without exceeding 28,800 flight cycles or 57,700 flight hours since first flight, whichever occurs first.

Note 1: To establish the average flight time, take the accumulated flight time (counted from the take-off up to the landing) and divide by the number of accumulated flight cycles. This gives the average flight time per flight cycle.

(2) For airplanes that have been modified before the effective date of this AD in accordance with Airbus Mandatory Service Bulletin A310–53–2124, Revision 01, dated May 3, 2007: Within 500 flight cycles or 800 flight hours after the effective date of this AD, whichever occurs first, contact Airbus and follow their corrective actions.

(3) If, during any inspection required by paragraph (f)(1) of this AD, any cracking is found or if the edge distance is less than the distance specified in Airbus Mandatory Service Bulletin A310–53–2124, Revision 02, dated May 22, 2008, before further flight, contact Airbus and follow their corrective actions.

FAA AD Differences

Note 2: 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, International Branch, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Stafford, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1622; fax (425)

227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

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

(3) *Reporting Requirements*: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, 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 Union Airworthiness Directive 2008–0212, dated December 4, 2008; and Airbus Mandatory Service Bulletin A310–53–2124, Revision 02, dated May 22, 2008; for related information.

Material Incorporated by Reference

(i) You must use Airbus Mandatory Service Bulletin A310–53–2124, Revision 02, dated May 22, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of Airbus Service Bulletin A310–53–2124, Revision 02, dated May 22, 2008, under 5 U.S.C. 552 (a) and 1 CF part 51.

(2) For service information identified in this AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; e-mail: *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com*.

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

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

Issued in Renton, Washington, on August 24, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–21147 Filed 9–8–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9456]

RIN 1545–BI78, 1545–BI79, 1545–BI80

Treatment of Services Under Section 482; Allocation of Income and Deductions From Intangible Property; Apportionment of Stewardship Expense; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations (TD 9456) that were published in the **Federal Register** on Tuesday, August 4, 2009 (74 FR 38830) providing guidance regarding the treatment of controlled services transactions under section 482 and the allocation of income from intangible property, in particular with respect to contributions by a controlled party to the value of intangible property owned by another controlled party. These final regulations modify regulations under section 861 concerning stewardship expenses to be consistent with the changes made to the guidance under section 482.

DATES: This correction is effective on September 9, 2009, and is applicable on August 4, 2009.

FOR FURTHER INFORMATION CONTACT: Carol B. Tan or Gregory A. Spring, (202) 435–5265 for matters relating to section 482, or Richard L. Chewning, (202) 622–3850 for matters relating to stewardship expenses (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this document are under sections 482, 861, 6038, and 6662 of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9456) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.482–1 is amended by revising the last sentence of paragraph (d)(3)(v) to read as follows:

§ 1.482–1 Allocation of income and deductions among taxpayers.

* * * * *

(d) * * *

(3) * * *

(v) * * * For guidance concerning the specific comparability considerations applicable to transfers of tangible and intangible property and performance of services, *see* §§ 1.482–3 through 1.482–6 and § 1.482–9; *see also* §§ 1.482–3(f), 1.482–4(f)(4), and 1.482–9(m), dealing with the coordination of intangible and tangible property and performance of services rules.

■ **Par. 3.** Section 1.482–6 is amended by revising the third sentence of paragraph (c)(3)(i)(B)(*1*) to read as follows:

§ 1.482–6 Profit split method.

* * * * *

(c) * * *

(3) * * *

(i) * * *

(B) * * *

(*1*) * * * Thus, in cases where such nonroutine contributions are present, there normally will be an unallocated residual profit after the allocation of income described in paragraph (c)(3)(i)(A) of this section. * * *

■ **Par. 4.** Section 1.482–8 is amended by revising the second sentence of paragraph (b) *Example 10.* (iv) to read as follows:

§ 1.482–8 Examples of the best method rule.

* * * * *

(b) * * *

Example 10. * * *

(iv) * * * A functional analysis indicates that USSub's activities to promote Product Y in year 4 are similar to activities performed by Agency A during years 1 through 3 under the contract with USSub. * * *

* * * * *

■ **Par. 5.** Section 1.482–9 is amended as follows:

■ 1. The last sentence of paragraph (b)(8) *Example 22.* (i) is revised.

■ 2. Paragraphs (b)(8) *Example 23.* (ii) second occurrence, (b)(8) *Example 23.* (iii), and (b)(8) *Example 23.* (iv) are redesignated as paragraphs (b)(8) *Example 23.* (iii), (b)(8) *Example 23.* (iv), and (b)(8) *Example 23.* (v).

■ 3. The table of paragraph (e)(4) *Example 4.* (ii) is revised.

■ 4. The last sentence of paragraph (g)(2) *Example 2.* (iii) is revised.

■ 5. The table of paragraph (k)(3) *Example 2.* (iii) is revised.

The revisions read as follows:

§ 1.482–9 Methods to determine taxable income in connection with a controlled services transaction.

* * * * *

(b) * * *

(8) * * *

Example 22. (i) * * * Company P's total services cost for services A, B, C, and D charged within the group is 100.

* * * * *

(e) * * *

(4) * * *

Example 4. * * *

(ii) * * *

Category	Rate
Project managers	$100 per hour.
Technical staff	$75 per hour.

* * * * *

(g) * * *

(2) * * *

Example 2. * * *

(iii) * * * In an effort to submit a winning bid to secure the contract, Company B points to its Level 2 license and its record of successful completion of projects, and also demonstrates to Country 2 government that it has access to substantial technical expertise pertaining to processing of Level 1 waste.

* * * * *

(k) * * *

(3) * * *

Example 2. * * *

(iii) * * *

Company	A	B	Total
Allocation	400/500	100/500	.....
Amount	80	20	100

* * * * *

■ Par. 6. Section 1.861–8 is amended by revising the fourth sentence of paragraph (g). Example 17. (ii)(A) to read as follows:

§ 1.861–8 Computation of taxable income from sources within the United States and from other sources and activities.

* * * * *

(g) * * *

Example 17. * * *

(ii) * * *

(A) * * * For purposes of applying the foreign tax credit limitation, the statutory grouping is general category gross income from sources without the United States and the residual grouping is gross income from sources with in the United States. * * *

* * * * *

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E9–21226 Filed 9–8–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9456]

RIN 1545–BI78, 1545–BI79, 1545–BI80

Treatment of Services Under Section 482; Allocation of Income and Deductions From Intangible Property; Apportionment of Stewardship Expense; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations (TD 9456) that were published in the **Federal Register** on Tuesday, August 4, 2009 (74 FR 38830) providing guidance regarding the treatment of controlled services transactions under section 482 and the allocation of income from intangible property, in particular with respect to contributions by a controlled party to the value of intangible property owned by another controlled party. These final regulations modify regulations under section 861 concerning stewardship expenses to be consistent with the changes made to the guidance under section 482.

DATES: This correction is effective on September 9, 2009, and is applicable on August 4, 2009.

FOR FURTHER INFORMATION CONTACT: Carol B. Tan or Gregory A. Spring, (202) 435–5265 for matters relating to section 482, or Richard L. Chewning, (202) 622–3850 for matters relating to stewardship expenses (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this document are under sections 482, 861, 6038, and 6662 of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9456) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 9456), which was the subject of FR Doc. E9–18326, is corrected as follows:

1. On page 38830, column 1, in the title, the language ''Treatment of Services Under Section 482; Allocation of Income and Deductions From Intangible Property; Stewardship Expense'' is corrected to read ''Treatment of Services Under Section 482; Allocation of Income and Deductions From Intangible Property; Apportionment of Stewardship Expense''.

2. On page 38830, column 3, in the preamble, under the paragraph heading ''Background'', first paragraph of the column, third line from the bottom of the paragraph, the language ''years after December 31, 2006) as the'' is corrected to read ''years beginning after December 31, 2006) as the''.

3. On page 38832, column 1, in the preamble, under the paragraph heading ''e. Business Judgment Rule'', first paragraph, eleventh line, the language ''one or more trades or business of the'' is corrected to read ''one or more trades or businesses of the''.

4. On page 38833, column 1, in the preamble, under the paragraph heading ''g. Shared Services Arrangements'', second paragraph, fifth line, the language ''under an SSA to the service provider'' is corrected to read ''under a SSA to the service provider''.

5. On page 38835, column 2, in the preamble, under the paragraph heading ''7. Controlled Services Transactions and Shareholder Activities—Treas. Reg. § 1.482–9(l)'', second paragraph of the column, lines 1 and 2 from the bottom of the paragraph, the language ''aggregate activity; rather than a component activity-by-activity basis.'' is corrected to read ''aggregate-activity basis; rather than a component activity-by-activity basis.''.

6. On page 38835, column 3, in the preamble, under the paragraph heading ''b. Global Dealing Operations'', last line of the paragraph, the language ''of global

dealing regulations.'' is corrected to read ''of new global dealing regulations.''.

7. On page 38837, column 1, in the first paragraph heading, the language ''*D. Stewardship Expenses—§ 1.861–8''* is corrected to read ''*D. Apportionment of Stewardship Expenses—§ 1.861–8''*.

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E9–21227 Filed 9–8–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9460]

RIN 1545–BD67

Declaratory Judgments—Gift Tax Determinations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under section 7477 of the Internal Revenue Code (Code) regarding petitions filed with the United States Tax Court for declaratory judgments with respect to the valuation of gifts. Changes to the applicable law were made by section 506(c)(1) of the Taxpayer Relief Act of 1997. These final regulations primarily affect individuals who are donors of gifts. The final regulations provide rules for determining whether a donor may petition the Tax Court for a determination regarding the value of a gift, including guidance regarding the definition of ''exhaustion of administrative remedies.''

DATES: *Effective date:* These regulations are effective September 9, 2009.

Applicability date: For the date of applicability, see § 301.7477–1(f).

FOR FURTHER INFORMATION CONTACT: Deborah S. Ryan or George Masnik (202) 622–3090 (not a toll free number).

Background

Section 7477, enacted in conjunction with other provisions as part of the Taxpayer Relief Act of 1997 (TRA) (Pub. L. 105–34, 111 Stat. 855), provides a declaratory judgment procedure pursuant to which taxpayers may contest in the United States Tax Court an IRS determination regarding the value of a gift. Prior law did not provide a judicial remedy in situations where the proposed IRS adjustment would not result in a gift tax deficiency or a tax overpayment. The new procedure applies, for example, where an increase in gift tax determined under section 2502 is offset by the taxpayer's applicable credit amount under section 2505(a), so that no additional tax is assessed as a result of a valuation increase. Because there is no tax deficiency, in the absence of section 7477, the taxpayer would be unable to challenge the IRS determination, even though, upon the expiration of the statute of limitations, that determination would become binding for purposes of calculating the cumulative gift tax on all future gifts of that taxpayer, as well as the taxpayer's estate tax liability. See H.R. Conf. Rep. No. 105–220, at 407–408 (1997).

On June 9, 2008, proposed regulations under section 7477 were published in the **Federal Register** (REG–143716–04, 73 FR 32503, 2008–25 IRB 1170). The IRS received no written or oral comments responding to the notice of proposed rulemaking. No public hearing was requested or held.

The final regulations include a few clarifications. In particular, under section 7477, in order to be eligible for the declaratory judgment procedure, the Tax Court must determine that the donor exhausted all administrative remedies. In general, the proposed regulations provide that the IRS will consider a donor to have exhausted all administrative remedies if an Appeals conference is requested timely and the donor (or an authorized representative) ''participates fully'' in the Appeals process. The final regulations contain a separate subsection specifying that full participation requires timely submission of requested information and disclosure of all relevant information regarding the controversy. In addition, a provision has been added specifying that, if Appeals does not grant the donor's request for a conference, the donor will be treated as having exhausted all administrative remedies if, after filing a Tax Court petition for a declaratory judgment, the donor (or authorized representative) participates fully in the Appeals office consideration when offered by the IRS while the case is in docketed status.

Special Analyses

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

Drafting Information

The principal authors of these final regulations are Deborah Ryan and Juli Ro Kim, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS. Other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 continues to read in part as follows:

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

■ **Par. 2.** Section 301.7477–1 is revised to read as follows:

§ 301.7477–1 Declaratory judgments relating to the value of certain gifts for gift tax purposes.

(a) *In general.* If the adjustment(s) proposed by the Internal Revenue Service (IRS) will not result in any deficiency in or refund of the donor's gift tax liability for the calendar year, and if the requirements contained in paragraph (d) of this section are satisfied, then the declaratory judgment procedure under section 7477 is available to the donor for determining the amount of one or more of the donor's gifts during that calendar year for Federal gift tax purposes.

(b) *Declaratory judgment procedure*—(1) *In general.* If a donor does not resolve a dispute with the IRS concerning the value of a transfer for gift tax purposes at the Examination level, the donor will be sent a notice of preliminary determination of value (Letter 950–G or such other document as may be utilized by the IRS for this purpose from time to time, but referred to in this section as Letter 950–G), inviting the donor to file a formal

protest and to request consideration by the appropriate IRS Appeals office. See §§ 601.105 and 601.106 of this chapter. Subsequently, the donor will be sent a notice of determination of value (Letter 3569, or such other document as may be utilized from time to time by the IRS for this purpose in cases where no deficiency or refund would result, but referred to in this section as Letter 3569) if—

(i) The donor requests Appeals consideration in writing within 30 calendar days after the mailing date of the Letter 950–G, or by such later date as determined pursuant to IRS procedures, and the matter is not resolved by Appeals;

(ii) The donor does not request Appeals consideration within the time provided in paragraph (b)(1)(i) of this section; or

(iii) The IRS does not issue a Letter 950–G in circumstances described in paragraph (d)(4)(iv) of this section.

(2) *Notice of determination of value.* The Letter 3569 will notify the donor of the adjustment(s) proposed by the IRS, and will advise the donor that the donor may contest the determination made by the IRS by filing a petition with the Tax Court before the 91st day after the date on which the Letter 3569 was mailed to the donor by the IRS.

(3) *Tax Court petition.* If the donor does not file a timely petition with the Tax Court, the IRS determination as set forth in the Letter 3569 will be considered the final determination of value, as defined in sections 2504(c) and 2001(f). If the donor files a timely petition with the Tax Court, the Tax Court will determine whether the donor has exhausted available administrative remedies. Under section 7477, the Tax Court is not authorized to issue a declaratory judgment unless the Tax Court finds that the donor has exhausted all administrative remedies within the IRS. See paragraph (d)(4) of this section regarding the exhaustion of administrative remedies.

(c) *Adjustments subject to declaratory judgment procedure.* The declaratory judgment procedures set forth in this section apply to adjustments involving all issues relating to the transfer, including without limitation valuation issues and legal issues involving the interpretation and application of the gift tax law.

(d) *Requirements for declaratory judgment procedure*—(1) *In general.* The declaratory judgment procedure provided in this section is available to a donor with respect to a transfer only if all the requirements of paragraphs (d)(2) through (5) of this section with regard to that transfer are satisfied.

(2) *Reporting.* The transfer is shown or disclosed on the return of tax imposed by chapter 12 for the calendar year during which the transfer was made or on a statement attached to such return. For purposes of this paragraph (d)(2), the term *return of tax imposed by chapter 12* means the last gift tax return (Form 709, ''United States Gift (and Generation-skipping Transfer) Tax Return'' or such other form as may be utilized for this purpose from time to time by the IRS) for the calendar year filed on or before the due date of the return, including extensions granted if any, or, if a timely return is not filed, the first gift tax return for that calendar year filed after the due date. For purposes of satisfying this requirement, the transfer need not be reported in a manner that constitutes adequate disclosure within the meaning of § 301.6501(c)–1(e) or (f) (and thus for which, under §§ 20.2001–1(b) and 25.2504–2(b) of this chapter, the period during which the IRS may adjust the value of the gift will not expire). The issuance of a Letter 3569 with regard to a transfer disclosed on a return does not constitute a determination by the IRS that the transfer was adequately disclosed, or otherwise cause the period of limitations on assessment to commence to run with respect to that transfer. In addition, in the case of a transfer that is shown on the return, the IRS may in its discretion defer until a later time making a determination with regard to such transfer. If the IRS exercises its discretion to defer such determination in that case, the transfer will not be addressed in the Letter 3569 (if any) sent to the donor currently, and the donor is not yet eligible for a declaratory judgment with regard to that transfer under section 7477.

(3) *IRS determination and actual controversy.* The IRS makes a determination regarding the gift tax treatment of the transfer that results in an actual controversy. The IRS makes a determination that results in an actual controversy with respect to a transfer by mailing a Letter 3569 to the donor, thereby notifying the donor of the adjustment(s) proposed by the IRS with regard to that transfer and of the donor's rights under section 7477.

(4) *Exhaustion of administrative remedies*—(i) *In general.* The Tax Court determines whether the donor has exhausted all administrative remedies available within the IRS for resolving the controversy.

(ii) *Appeals office consideration.* For purposes of this section, the IRS will consider a donor to have exhausted all administrative remedies if, prior to filing a petition in Tax Court (except as provided in paragraphs (d)(4)(iii) and (iv) of this section), the donor, or a qualified representative of the donor described in § 601.502 of this chapter, timely requests consideration by Appeals and participates fully (within the meaning of paragraph (d)(4)(vi) of this section) in the Appeals consideration process. A timely request for consideration by Appeals is a written request from the donor for Appeals consideration made within 30 days after the mailing date of the Letter 950–G, or by such later date for responding to the Letter 950–G as is agreed to between the donor and the IRS.

(iii) *Request for Appeals office consideration not granted.* If the donor, or a qualified representative of the donor described in § 601.502 of this chapter, timely requests consideration by Appeals and Appeals does not grant that request, the IRS nevertheless will consider the donor to have exhausted all administrative remedies within the IRS for purposes of section 7477 upon the issuance of the Letter 3569, provided that the donor, or a qualified representative of the donor described in § 601.502 of this chapter, after the filing of a petition in Tax Court for a declaratory judgment pursuant to section 7477, participates fully (within the meaning of paragraph (d)(4)(vi) of this section) in the Appeals office consideration if offered by the IRS while the case is in docketed status.

(iv) *No Letter 950–G issued.* If the IRS does not issue a Letter 950–G to the donor prior to the issuance of Letter 3569, the IRS nevertheless will consider the donor to have exhausted all administrative remedies within the IRS for purposes of section 7477 upon the issuance of the Letter 3569, provided that—

(A) The IRS decision not to issue the Letter 950–G was not due to actions or inactions of the donor (such as a failure to supply requested information or a current mailing address to the Area Director having jurisdiction over the tax matter); and

(B) The donor, or a qualified representative of the donor described in § 601.502 of this chapter, after the filing of a petition in Tax Court for a declaratory judgment pursuant to section 7477, participates fully (within the meaning of paragraph (d)(4)(vi) of this section) in the Appeals office consideration if offered by the IRS while the case is in docketed status.

(v) *Failure to agree to extension of time for assessment.* For purposes of section 7477, the donor's refusal to agree to an extension of the time under section 6501 within which gift tax with

respect to the transfer at issue (if any) may be assessed will not be considered by the IRS to constitute a failure by the donor to exhaust all administrative remedies available to the donor within the IRS.

(vi) *Participation in Appeals consideration process.* For purposes of this section, the donor or a qualified representative of the donor described in § 601.502 of this chapter participates fully in the Appeals consideration process if the donor or the qualified representative timely submits all information related to the transfer that is requested by the IRS in connection with the Appeals consideration and discloses to the Appeals office all relevant information regarding the controversy to the extent such information and its relevance is known or should be known by the donor or the qualified representative during the time the issue is under consideration by Appeals.

(5) *Timely petition in Tax Court.* The donor files a pleading with the Tax Court requesting a declaratory judgment under section 7477. This pleading must be filed with the Tax Court before the 91st day after the date of mailing of the Letter 3569 by the IRS to the donor. The pleading must be in the form of a petition subject to Tax Court Rule 211(d).

(e) *Examples.* The following examples illustrate the provisions of this section, and assume that in each case the Tax Court petition is filed on or after September 9, 2009.

These examples, however, do not address any other situations that might affect the Tax Court's jurisdiction over the proceeding:

Example 1. Exhaustion of administrative remedies. The donor (D) timely files a Form 709, ''United States Gift (and Generation-Skipping Transfer) Tax Return,'' on which D reports D's completed gift of closely held stock. After conducting an examination, the IRS concludes that the value of the stock on the date of the gift is greater than the value reported on the return. Because the amount of D's available applicable credit amount under section 2505 is sufficient to cover any resulting tax liability, no gift tax deficiency will result from the adjustment. D is unable to resolve the matter with the IRS examiner. The IRS sends a Letter 950–G to D informing D of the proposed adjustment. D, within 30 calendar days after the mailing date of the letter, submits a written request for Appeals consideration. During the Appeals process, D provides to the Appeals office all additional information (if any) requested by Appeals relevant to the determination of the value of the stock in a timely fashion. The Appeals office and D are unable to reach an agreement regarding the value of the stock as of the date of the gift. The Appeals office sends D a notice of determination of value (Letter 3569). For purposes of section 7477, the IRS will consider D to have exhausted all available administrative remedies within the IRS, and thus will not contest the allegation in D's petition that D has exhausted all such administrative remedies.

Example 2. Exhaustion of administrative remedies. Assume the same facts as in *Example 1,* except that D does not timely request consideration by Appeals after receiving the Letter 950–G. A Letter 3569 is mailed to D more than 30 days after the mailing of the Letter 950–G and prior to the expiration of the period of limitations for assessment of gift tax. D timely files a petition in Tax Court pursuant to section 7477. After the case is docketed, D requests Appeals consideration. In this situation, because D did not respond timely to the Letter 950–G with a written request for Appeals consideration, the IRS will not consider D to have exhausted all administrative remedies available within the IRS for purposes of section 7477 prior to filing the petition in Tax Court, and thus may contest any allegation in D's petition that D has exhausted all such administrative remedies.

Example 3. Exhaustion of administrative remedies. D timely files a Form 709 on which D reports D's completed gifts of interests in a family limited partnership. After conducting an examination, the IRS proposes to adjust the value of the gifts as reported on the return. No gift tax deficiency will result from the adjustments, however, because D has a sufficient amount of available applicable credit amount under section 2505. D declines to consent to extend the time for the assessment of gift tax with respect to the gifts at issue. Because of the pending expiration of the period of limitation on assessment within which a gift tax, if any, could be assessed, the IRS determines that there is not adequate time for Appeals consideration. Accordingly, the IRS mails to D a Letter 3569, even though a Letter 950–G had not first been issued to D. D timely files a petition in Tax Court pursuant to section 7477. After the case is docketed in Tax Court, D is offered the opportunity for Appeals to consider any dispute regarding the determination and participates fully in the Appeals consideration process. However, the Appeals office and D are unable to resolve the issue. The IRS will consider D to have exhausted all administrative remedies available within the IRS, and thus will not assert that D has not exhausted all such administrative remedies.

Example 4. Legal issue. D transfers nonvested stock options to a trust for the benefit of D's child. D timely files a Form 709 reporting the transfer as a completed gift for Federal gift tax purposes and complies with the adequate disclosure requirements for purposes of triggering the commencement of the applicable statute of limitations. Pursuant to § 301.6501(c)–1(f)(5), adequate disclosure of a transfer that is reported as a completed gift on the Form 709 will commence the running of the period of limitations for assessment of gift tax on D, even if the transfer is ultimately determined to be an incomplete gift for purposes of § 25.2511–2 of this chapter. After conducting an examination, the IRS concurs with the reported valuation of the stock options, but concludes that the reported transfer is not a completed gift for Federal gift tax purposes. D is unable to resolve the matter with the IRS examiner. The IRS sends a Letter 950–G to D, who timely mails a written request for Appeals consideration. Assuming that the IRS mails to D a Letter 3569 with regard to this transfer, and that D complies with the administrative procedures set forth in this section, including the exhaustion of all administrative remedies available within the IRS, then D may file a petition for declaratory judgment with the Tax Court pursuant to section 7477.

Example 5. Transfers in controversy. On April 16, 2007, D timely files a Form 709 on which D reports gifts made in 2006 of fractional interests in certain real property and of interests in a family limited partnership (FLP). However, although the gifts are disclosed on the return, the return does not contain information sufficient to constitute adequate disclosure under § 301.6501(c)–1(e) or (f) for purposes of the application of the statute of limitations on assessment of gift tax with respect to the reported gifts. The IRS conducts an examination and concludes that the value of both the interests in the real property and the FLP interests on the date(s) of the transfers are greater than the values reported on the return. No gift tax deficiency will result from the adjustments because D has a sufficient amount of remaining applicable credit amount under section 2505. However, D does not agree with the adjustments. The IRS sends a Letter 950–G to D informing D of the proposed adjustments in the value of the reported gifts. D, within 30 calendar days after the mailing date of the letter, submits a written request for Appeals consideration. The Appeals office and D are unable to reach an agreement regarding the value of any of the gifts. In the exercise of its discretion, the IRS decides to resolve currently only the value of the real property interests, and to defer the resolution of the value of the FLP interests. On May 28, 2009, the Appeals office sends D a Letter 3569 addressing only the value of the gifts of interests in the real property. Because none of the gifts reported on the return filed on April 16, 2007 were adequately disclosed for purposes of § 301.6501(c)–1(e) or (f), the period of limitations during which the IRS may adjust the value of those gifts has not begun to run. Accordingly, the Letter 3569 is timely mailed. If D timely files a petition in Tax Court pursuant to section 7477 with regard to the value of the interests in the real property, then, assuming the other requirements of section 7477 are satisfied with regard to those interests, the Tax Court's declaratory judgment, once it becomes final, will determine the value of the gifts of the interests in the real property. Because the IRS has not yet put the gift tax value of the interests in the FLP into controversy, the procedure under section 7477 is not yet available with regard to those gifts.

(f) *Effective/applicability date.* This section applies to civil proceedings described in section 7477 filed in the

United States Tax Court on or after September 9, 2009.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Approved: August 26, 2009.

Michael Mundaca,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E9–21458 Filed 9–8–09; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, 1917, and 1918

[Docket No. OSHA–2007–0044]

RIN 1218–AC08

Updating OSHA Standards Based on National Consensus Standards; Personal Protective Equipment

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

ACTION: Final rule.

SUMMARY: OSHA is issuing this final rule to revise the personal protective equipment (PPE) sections of its general industry, shipyard employment, longshoring, and marine terminals standards regarding requirements for eye- and face-protective devices, head protection, and foot protection. OSHA is updating the references in its regulations to recognize more recent editions of the applicable national consensus standards, and is deleting editions of the national consensus standards that PPE must meet if purchased before a specified date. In addition, OSHA is amending its provision that requires safety shoes to comply with a specific American National Standards Institute (ANSI) standard, and a provision that requires filter lenses and plates in eye-protective equipment to meet a test for transmission of radiant energy specified by another ANSI standard. In amending these paragraphs, OSHA will require this safety equipment to comply with the applicable PPE design provisions. These revisions are a continuation of OSHA's effort to update or remove references to specific consensus and industry standards located throughout its standards.

DATES: This final rule will become effective on October 9, 2009.

The incorporation by reference of specific publications listed in this final rule is approved by the Director of the Federal Register as of October 9, 2009.

FOR FURTHER INFORMATION CONTACT:

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

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

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

SUPPLEMENTARY INFORMATION:

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I. Summary and Explanation of the Final Rule

A. General Background

As discussed in a previous **Federal Register** document (69 FR 68283), OSHA is undertaking a series of projects to update its standards to incorporate the latest versions of national consensus and industry standards. These projects include updating or revoking national consensus and industry standards referenced in existing OSHA standards, updating regulatory text of standards adopted directly by OSHA from the language of outdated consensus standards, and, when appropriate, replacing specific references to outdated national consensus and industry standards with performance-oriented requirements.

On May 17, 2007, OSHA published a Notice of Proposed Rulemaking (NPRM) (72 FR 27771) entitled ''Updating OSHA Standards Based on National Consensus Standards; Personal Protective Equipment.'' The NPRM set July 16, 2007, as a deadline for submitting comments and for requesting an informal public hearing on the proposed rule. The Agency received approximately 25 comments and 4 requests for an informal public hearing. OSHA then published a **Federal Register** notice scheduling an informal public hearing for December 4, 2007 (72 FR 50302). The informal public hearing took place as scheduled, and OSHA received testimony from nine witnesses. Thomas M. Burke, Administrative Law Judge, presided at the hearing. At the end of the hearing, Judge Burke set deadlines of January 3, 2008, for submission of post-hearing comments, and February 4, 2008, for the submission of final summations and briefs. Judge Burke closed and certified the record for this rulemaking on June 23, 2008.

B. Revisions to the PPE Provisions of the OSHA Standards

1. Background of OSHA's PPE Standards

Subpart I of OSHA's general industry standards contains design requirements for eye- and face-protective devices, head protection, and foot protection. (*See* 29 CFR 1910.133, 1910.135, 1910.136.) OSHA has similar requirements in subpart I of part 1915 (Shipyard Employment), subpart E of part 1917 (Marine Terminals), and subpart J of part 1918 (Longshoring). These rules require that the specified PPE comply with national consensus standards incorporated by reference into the OSHA standards, unless the employer demonstrates that a piece of equipment is as effective as equipment that complies with the incorporated national consensus standard. (*See, e.g.,* 29 CFR 1910.133(b)(1).) [1] These design provisions are part of comprehensive requirements to ensure that employees use PPE that will protect them from hazards in the workplace.

The incorporated ANSI standards are over a decade old and, in some instances, are two decades old. Over this period, ANSI updated all of the standards, and, in one instance (*i.e.,* the

[1] The general industry and shipyard employment standards expressly allow employers to use PPE that is as protective as PPE constructed in accordance with the incorporated standards. OSHA uses its de minimis policy to allow employers covered by the longshoring and marine terminals standards to use PPE that is as protective as PPE constructed in accordance with the incorporated standards. (See OSHA Instruction CPL 2.103, ''Field Inspection Reference Manual,'' Chapter III.C.2.g; and memorandum from Richard Fairfax, Director, Directorate of Enforcement Programs to Regional Administrators (June 19, 2006).)

ANSI Z41 standard for protective footwear), ANSI withdrew its standard when ASTM adopted a national consensus standard for protective footwear. In response, manufacturers began manufacturing PPE that conforms with the updated ANSI and ASTM standards. As a result, employers and employees have difficulty obtaining PPE manufactured in accordance with the national consensus standards incorporated earlier in OSHA standards. OSHA estimates that these types of PPE last about two to four years. (*See* OSHA Docket S–060, ''Preliminary Regulatory Impact & Regulatory Flexibility Analysis of the Personal Protective Equipment Standard,'' Table IV–2 (U.S. Department of Labor, OSHA, Office of Regulatory Analysis, June 30, 1989).)

2. Updating OSHA's PPE Standards

In the past, OSHA updated its PPE standards by revising them to incorporate recent versions of the national consensus standards, while leaving the earlier versions of these national consensus standards in the regulatory text. (*See* 59 FR 16360 (April 6, 1994).) This action temporarily alleviated the problem of trying to obtain PPE manufactured in accordance with an earlier version of a national consensus standard, but it ensured that the problem would arise again as the later versions of the standards superseded the newly incorporated versions. To alleviate this problem, OSHA proposed to replace the references to specific national consensus standards with a performance-oriented ''good-design'' requirement. (72 FR 27771.) The proposed rule provided guidance on how employers could meet the good-design requirement. It also included nonmandatory appendices listing those national consensus standards that OSHA had determined were good-design standards that would meet the good-design requirement. To ensure that the appendices remained useful in the future, OSHA promised in the proposal to use direct-final rulemaking to incorporate future editions of consensus standards into the nonmandatory appendices. The proposed rule also deleted older, out-of-date consensus standards that OSHA had incorporated into its standards to allow employers to continue using PPE they had purchased before a specified date. OSHA noted that the proposed rule did not alter the duties of employers because it only provided employers with additional options for meeting their duty under the design-criteria provisions of OSHA's existing PPE standards.

The proposed rule also deleted a paragraph in § 1910.94 and another paragraph in § 1910.252, which reference, respectively, specific versions of American National Standards Institute (ANSI) standards on foot protection and eye- and face-protective devices. OSHA explained that, in deleting these references, the relevant design provisions of the general industry PPE standard would apply to these types of PPE.

C. Discussion of Comments and Hearing Testimony

1. Updating References to Consensus Standards

Commenters universally agreed with OSHA's proposal to update the references to national consensus standards. However, a significant majority, including employee representatives, PPE manufacturers, and safety professionals opposed the proposed replacement of specific references to national consensus standards in the regulatory text with a performance-oriented good-design requirement and a nonmandatory appendix. (*See, e.g.,* AFL–CIO (OSHA–2007–0044–0023); U.S. Safety (Ex. –0024); International Safety Equipment Association (ISEA) (Ex. –0025); American Society of Safety Engineers (ASSE) (Ex. –0029); *see also* 3M Company (Ex. –0026) (expressing support for performance-oriented approach, but recommending that appendices be mandatory and that OSHA only list ANSI and ASTM standards as good-design standards at this time).) A few trade associations representing employers generally supported the proposal's performance-oriented approach, but also noted the widespread use of PPE that meets ANSI and ASTM standards and, in one case, the need to ensure that other ''good design standards'' were developed using a process comparable to the processes ANSI and ASTM use. (*See* National Grain and Feed Association and Grain Elevator and Processing Society (Ex. OSHA–2007–0044–0027); American Bakers Association (Ex. –0028); National Automobile Dealers Association (NADA) (Ex. –0047; *see, also,* International Association of Drilling Contractors (Ex. –0022) (expressing concerns with the proposal, but apparently implicitly endorsing the performance-oriented approach).) Three government agencies commented on the proposal. All three supported updating the out-of-date standards. (*See* Kentucky Department of Labor, Office of Occupational Safety and Health (Ex. OSHA–2007–0044–0021); North Carolina Department of Labor, Occupational Safety and Health Division (Ex. –0034); NIOSH (Ex. –0037)). All witnesses who participated at the hearing testified in opposition to the proposed good-design approach. (*See* Ex. OSHA–2007–0044–0059.)

In general, the commenters noted that the proposal was confusing, (*e.g.,* AFL–CIO (Ex. OSHA–2007–0044–0023)), that it removed a ''baseline'' level of protection from the standards, (*see, e.g.,* ISEA (Ex. –0025)), that the criteria defining a good-design standard were too vague and subjective, (*see, e.g.,* ASSE, Tr. at 84–85), and that the proposal could result in less employee protection (*see, e.g.,* U.S. Safety (Ex. –0024)). In addition, the AFL–CIO asserted that OSHA could alleviate the administrative and practical difficulties associated with outdated national consensus standards by updating the OSHA standards through direct-final rulemaking. (*See* Ex. OSHA–2007–0044–0023; Tr. 95–96.)

OSHA believes that, for the most part, these and other criticisms of the proposal represent a misunderstanding of the proposal or overstate the effects of the proposed good-design requirement. For example, numerous commenters noted that the proposed rule eliminated a baseline level of PPE protection. (*See, e.g.,* ISEA (Ex. OSHA–2007–0044–0025) and ASSE (Tr. at 84–85).) These concerns appear to overlook the provision in the proposal that required the PPE to provide protection equivalent to or greater than PPE that was constructed in accordance with one of the national consensus standards listed in the nonmandatory appendices, which included national consensus standards already incorporated into the OSHA standards. (*See, e.g.,* proposed § 1910.133(b)(2) in 72 FR 27775.)

Several commenters expressed concern that allowing employers to select PPE that provided protection equivalent to PPE constructed in accordance with a listed ANSI standard was subject to abuse. (*See* ISEA (Tr. at 40–41); ASSE (Ex. OSHA–2007–0044–0029) and (Tr. at 79).) Although OSHA cannot rule out the possibility that employers could incorrectly claim that PPE constructed in accordance with a non-ANSI design standard provides an appropriate level of protection, the Agency notes that, in the case of the current general industry and shipyard employment PPE provisions, employers could make the same claim. (*See, e.g.,* 29 CFR 1910.133(b)(2).)

Finally, a few commenters remarked that employee protection may decrease because OSHA, at a later date, could approve, for inclusion in the

nonmandatory appendices, a design standard that did not provide an adequate level of protection. (*See, e.g.,* ASSE (Ex. OSHA–2007–0044–0029, and Tr. at 79).) These commenters, however, did not provide a basis for this comment. Moreover, OSHA notes that such action would be counter to its long-standing policy to adopt new requirements only if they provide employees with equivalent or increased protection. In any event, adding a design standard to the nonmandatory appendices would be subject to notice-and-comment rulemaking.

OSHA believes that the widespread opposition to the good-design provision indicates possible misapplication of the standard if adopted as proposed. In addition, the widespread support for continued incorporation of national consensus standards convinces OSHA that using direct-final rulemaking to update references to national consensus standards may alleviate the administrative and practical problems that arise when OSHA standards require compliance with outdated national consensus standards.[2] Accordingly, OSHA is not adopting the proposed good-design approach.

Instead, OSHA revised the text of the final rules to allow employers to meet the design requirements of its PPE standards by using PPE constructed in accordance with any of three national consensus standards—the two most recent national consensus standards and the national consensus standard incorporated in the current OSHA standards. Additionally, the final rules maintain the option employers currently have to use PPE that is not manufactured in accordance with one of the listed consensus standards if the employer can demonstrate that the PPE it selects is as protective as PPE constructed in accordance with one of the incorporated consensus standards. The final regulatory text responds to the numerous requests that OSHA continue to incorporate, and require compliance with, specific national consensus standards. (*See, e.g.,* Tr. at 44–45 and 95–97; Exs. OSHA–2007–0044–0023 and –0048).)

2. Miscellaneous Comments

ISEA, in its written comments, recommended that OSHA amend Appendix B to § 1910, subpart I (''Selection Guidelines for Head Protection'') to conform to the recent edition of ANSI Z89.1 (*see* Ex. OSHA–2007–0044–0025). Beginning with the ANSI Z89.1–1997 standard, ANSI updated the classification system for protective helmets. In this edition and in the subsequent edition, ANSI classified the type and class of protective helmets differently than it did in the current OSHA-incorporated 1986 edition. Consequently, ANSI no longer uses the old designations—Type 1 (hats) and Type 2 (caps). The electrical insulation classifications of Class G (General—tested to 2200V), Class E (Electrical—tested to 20,000V), and Class C (Conductive—no electrical protection) replace former Classes A, B, and C, respectively, to make the designations more user-friendly. Therefore, the Agency is amending paragraph 9 of nonmandatory Appendix B to § 1910, subpart I by adding a discussion clarifying the relationship between the old classification system and the new classification system.

A number of commenters and witnesses addressed matters that are beyond the scope of this rulemaking. For example, several commenters and witnesses recommended that OSHA require third-party certification or independent testing of PPE. (*See* Tr. at 83; Exs. OSHA–2007–0044–0031 and –0037.) One commenter asked OSHA to address respirators in this rulemaking (Ex. OSHA–2007–0044–0003). Other commenters addressed who had responsibility for paying for PPE (Exs. OSHA–2007–0044–0004 and –0034), an issue OSHA resolved in a previous rulemaking (*see* 72 FR 64342). Two commenters requested that OSHA supply free national consensus standards to interested parties (Exs. OSHA–2007–0044–0017 and –0020). Regarding this request, OSHA notes that copyright laws protect national consensus standards referenced in its standards, although copies of these national consensus standards are available for viewing only at OSHA's Docket Office, libraries at OSHA Regional Offices, and the U.S. National Archives and Records Administration.

Some commenters (Exs. OSHA–2007–0044–0021 and –0034) and witnesses (Tr. at 18–19 and 51–52) questioned the Agency's decision not to include the construction industry in this rulemaking. OSHA responded at the hearing that it had decided not to include the construction industry because of the size of the undertaking and OSHA's limited resources. (Tr. at 18–19).

3. Deleting Outdated References From Ventilation and Welding Standards

OSHA did not receive any comments on its proposal to delete paragraph (a)(5)(v)(*a*) in § 1910.94 and paragraph (b)(2)(ii)(I) in § 1910.252,[3] which reference, respectively, specific versions of American National Standards Institute (ANSI) standards on foot protection and eye- and face-protective devices.

Paragraph (a)(5)(v)(*a*) of § 1910.94 requires that safety shoes used by abrasive-blasting operators comply with ANSI Z41.1–1967, while § 1910.252(b)(2)(ii)(I) specifies that filter lenses and plates used in protective eyewear for welding must comply with the transmission test for radiant energy prescribed in ANSI Z87.1–1968. These references are outdated and, therefore, OSHA is amending these paragraphs so that they are consistent with OSHA's revisions to §§ 1910.133(b) and 1910.136(b).

D. Summary of the Final Rule

With this rulemaking, OSHA is updating the references to national consensus standards in the PPE sections of its general industry, shipyard employment, longshoring, and marine terminals rules, thereby explicitly allowing employers to use PPE constructed in accordance with the most recent national consensus standards. Numerous comments and hearing testimony persuaded OSHA to leave the references to national consensus standards in the regulatory text of the final standard. In this regard, the Agency decided to allow employers to use any of three editions of the national consensus standards, which consist of the post-1986 editions they must use currently and either of the two most recent editions of these standards. This action is consistent with the notice provided by the NPRM (72 FR 27771).

The final regulatory text addresses 3M's written comment that, even though 3M supports the proposal's performance-oriented approach, the proposal's nonmandatory appendix should be mandatory (Ex. OSHA–2007–0044–0026). Similarly, it is consistent with the recommendation made by several trade associations that employers should be able to comply with their obligations under the proposed rule by continuing to use PPE constructed in accordance with ANSI

[2] OSHA will use the direct-final rulemaking process to update national consensus standards referenced in its PPE standards when it is appropriate to do so (*see,* J. Lubbers, *A Guide to Federal Agency Rulemaking,* at 115–119 (4th ed. 2006)).

[3] The NPRM also requested public comment on (1) its assumption that the proposed revisions would not increase compliance burdens, and (2) whether it should replace these paragraphs with cross references to §§ 1910.136(b) and 1910.133(b). The Agency received no comment on either issue.

and ASTM standards. (*See* National Grain and Feed Association and Grain Elevator and Processing Society (Ex. OSHA–2007–0044–0027); American Bakers Association (Ex. –0028); NADA (Ex. –0047); *see, also,* International Association of Drilling Contractors (Ex. –0022) (stating that OSHA ''may wish to consider including International Standards Organization (ISO) standards'' to the list of standards in the nonmandatory appendices).)

In developing the final rule, the Agency had to decide whether to allow employers to continue using the editions of the national consensus standards currently incorporated in its PPE standards. In this regard, several commenters and witnesses recommended that OSHA delete references to the versions of the national consensus standards that are currently incorporated in the OSHA standards, (*see, e.g.,* Ex. OSHA–2007–0044–0025; Tr. at 81). However, OSHA received testimony from several witnesses at the hearing that the PPE designed under a previous standard generally remains safe to use even though it may not conform totally with the most recent standard, and that allowing employers to use this PPE would permit them to deplete inventories before they have to purchase new PPE (Tr. at 90 and 140–143). In addition to these comments, OSHA proposed in the NPRM to list these editions in the nonmandatory appendices as examples of national consensus standards that met the proposal's good design requirement, thereby demonstrating OSHA's confidence in the level of employee protection afforded by these national consensus standards. The Agency also noted in the NPRM that the rulemaking would place no economic burden on employers who may still be using PPE constructed in accordance with the currently incorporated editions of the national consensus standards, implying that these employers could continue using this equipment.[4] Therefore, based on the witness testimony and its statements in the NPRM, OSHA is retaining references to post-1986 editions of the national consensus standards currently incorporated in its PPE standards.

The regulatory text in the final standards also is consistent with OSHA's need to alleviate the administrative and practical problems that arise when current OSHA standards require compliance with outdated national consensus standards and updated national consensus standards are available that would enable employers to use PPE that meets design requirements that would provide employees with an equivalent or increased level of protection. Although the final rule does not alleviate the administrative and practical problems completely, OSHA believes that using direct-final rulemaking will reduce substantially the burden of revising this final regulatory text to incorporate future national consensus standards as ANSI and other standards-development organizations develop them.

The safety shoes required by § 1910.94(a)(5)(v)(a) must comply with the updated national consensus standards referenced in § 1910.136(b)(1), while the filter lenses and plates in protective eyewear required by § 1910.252(b)(2) must meet one of the tests for radiant-energy transmission prescribed in the ANSI standards incorporated by the updated § 1910.133(b)(1).

OSHA believes these deletions of references to specific outdated consensus standards will not increase compliance burdens, including compliance costs, because it is unlikely that employers are using safety shoes and eyewear manufactured in accordance with ANSI Z41.1–1967 and ANSI Z87.1–1968, respectively. (*See* Tr. at 55 (ISEA representative testifying that employers cannot purchase PPE built to the ANSI standards that are currently incorporated in OSHA's standards).) Instead, the Agency presumes that employers are using safety shoes manufactured in accordance with the 1991 or 1999 editions of ASTM F–2412–05 and ASTM F–2413–05, and eyewear that complies with ANSI Z87.1–1989, ANSI 87.1–1989 (R–1998), or ANSI Z87.1–2003.

Regarding safety shoes, OSHA believes that shoes constructed according to recent national consensus standards provide an appropriate level of protection, and, moreover, that it is difficult for employers to purchase shoes constructed in accordance with the referenced 1967 national consensus standard. Similarly, although it is feasible to purchase protective eye wear that meets an outdated test, if the protective eye wear meets a subsequent test that provides equivalent or greater protection, it is unnecessarily confusing to explicitly require conformity to an outdated test when meeting a more current test provides the required level of protection. Accordingly, OSHA believes that complying with related OSHA standards (*i.e.,* §§ 1910.133(b) and 1910.136(b)) will provide employees with the latest PPE technology while also easing employers' compliance obligations. In the final rule, OSHA revised the phrase ''filter lens and plates'' to ''filter lens'' to conform to the definitions in the recent ANSI standards. The newly incorporated ANSI standards do not define ''plates,'' and the definitions of ''filter lens'' in these standards are broad enough to encompass ''plates'' as the term was used in § 1910.252(b)(2)(ii)(I) and the 1968 ANSI standard. OSHA does not consider this revision to be substantive.

OSHA is retaining in the final rules the proposed provision allowing employers to use PPE not manufactured in accordance with one of the incorporated national consensus standards when the employers meet their burden to demonstrate that the PPE they use provides employee protection that is *at least as* effective as PPE constructed in accordance with the appropriate incorporated national consensus standard. This provision allows employers to use subsequent national consensus standards that they can demonstrate provide the requisite level of employee protection. Differences in this provision, compared to similar provisions in OSHA's current PPE standards, are editorial only, and do not alter the substantive requirements of the current standards.

This rulemaking also deletes the paragraphs in §§ 1910.94 and 1910.252 that reference pre-1970 ANSI standards on foot protection and eye- and face-protective devices, respectively. Instead, employers must comply with §§ 1910.136(b) and 1910.133(b), which consist, respectively, of requirements for foot protection and eye- and face-protective devices newly updated under this rulemaking.

Finally, the Agency plans in the future to update the national consensus standards referenced in its PPE standards as new editions become available. Once OSHA determines that a new edition of a national consensus standard provides protection that is equal to or greater than the editions currently incorporated into its PPE standards, the Agency will use appropriate rulemaking, including direct-final rulemaking, to incorporate the new editions, and to remove outdated editions, from the regulatory text.

[4] In the NPRM, OSHA specifically noted that it did not believe that employers were still using PPE constructed in accordance with the ANSI standards that it adopted to allow employers to continue to use PPE they purchased before a specified date, and proposed to delete any reference to these consensus standards from the PPE standards. OSHA received no comments indicating that employers were using such PPE currently.

II. Procedural Determinations

A. Legal Considerations

The purpose of the Occupational Safety and Health Act of 1970 (OSH Act), 29 U.S.C. 651 *et seq.,* is to achieve to the extent possible safe and healthful working conditions for all employees. 29 U.S.C. 651(b). To achieve this goal, Congress authorized the Secretary of Labor to promulgate and enforce occupational safety and health standards. 29 U.S.C. 654(b), 655(b). A safety or health standard is a standard that requires employers to maintain conditions or adopt practices that are reasonably necessary or appropriate to provide safe or healthful working conditions. 29 U.S.C. 652(8). A standard is reasonably necessary or appropriate within the meaning of Section 652(8) of the OSH Act if a significant risk of material harm exists in the workplace and the proposed standard would substantially reduce or eliminate that workplace risk. OSHA already determined that requirements for PPE, including design requirements, are reasonably necessary or appropriate within the meaning of Section 652(8). The final rule neither reduces employee protection nor alters an employer's obligations under the existing standard. Under the final rule, employers will be able to continue to use the same equipment they have been using to meet their compliance obligation under the existing standards' design-criteria requirements. The final rule provides employers with additional options for meeting the design-criteria requirement—options most employers already are using. Therefore, this final rule does not alter the substantive protection that must be provided to employees and the compliance burdens on employers. Accordingly, OSHA need not, in this rulemaking, determine significant risk or the extent to which the final rule will reduce that risk, as typically required by *Industrial Union Department, AFL–CIO* v. *American Petroleum Institute,* 448 U.S. 607 (1980).

B. Final Economic Analysis and Regulatory Flexibility Act Certification

This action is not economically significant within the context of Executive Order 12866, or a major rule under the Unfunded Mandates Reform Act or Section 801 of the Small Business Regulatory Enforcement Fairness Act. The rulemaking imposes no additional costs on any private or public sector entity, and does not meet any of the criteria for an economically significant or major rule specified by the Executive Order or relevant statutes.

This rulemaking allows employers increased flexibility in choosing PPE for employees. However, the final rule does not require an employer to update or replace its PPE solely as a result of this rule if the PPE currently in use meets the existing standards. Furthermore, because the rule imposes no costs, OSHA certifies that it would not have a significant impact on a substantial number of small entities.

C. OMB Review Under the Paperwork Reduction Act of 1995

This rulemaking does not impose new information collection requirements for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–30.

D. Federalism

OSHA reviewed this final rule in accordance with the Executive Order on Federalism (Executive Order 13132, 64 FR 43255, August 10, 1999), which requires that agencies, to the extent possible, refrain from limiting State policy options, consult with States prior to taking any actions that would restrict State policy options, and take such actions only when clear constitutional authority exists and the problem is national in scope. Executive Order 13132 provides for preemption of State law only with the expressed consent of Congress. Any such preemption is to be limited to the extent possible.

Under Section 18 of the Occupational Safety and Health Act of 1970 (OSH Act; 29 U.S.C. 667), Congress expressly provides that States may adopt, with Federal approval, a plan for the development and enforcement of occupational safety and health standards; States that obtain Federal approval for such a plan are referred to as ''State-Plan States.'' (29 U.S.C. 667.) Occupational safety and health standards developed by State-Plan States must be at least as effective in providing safe and healthful employment and places of employment as the Federal standards. Subject to these requirements, State-Plan States are free to develop and enforce under State law their own requirements for occupational safety and health standards.

While OSHA drafted this final rule to protect employees in every State, Section 18(c)(2) of the Act permits State-Plan States and Territories to develop and enforce their own standards for the design of personal-protective equipment provided these requirements are at least as effective in providing safe and healthful employment and places of employment as the requirements specified in this final rule.

In summary, this final rule complies with Executive Order 13132. In States without OSHA-approved State Plans, this rulemaking limits State policy options in the same manner as other OSHA standards. In State-Plan States, this rulemaking does not significantly limit State policy options because, as explained in the following section, State-Plan States do not have to adopt the final rule.

E. State-Plan States

When Federal OSHA promulgates a new standard or amends an existing standard to be more stringent than it was previously, the 26 States or U.S. Territories with their own OSHA-approved occupational safety and health plans must revise their standards to reflect the new standard or amendment, or show OSHA why such action is unnecessary, *e.g.,* because an existing State standard covering this area is at least as effective as the new Federal standard or amendment. 29 CFR 1953.5(a). In this regard, the State standard must be at least as effective as the final Federal rule, must be applicable to both the private and public (State and local government employees) sectors, and the States must complete the rulemaking within six months of the publication date of the Federal rule. When OSHA promulgates a new standard or amendment that does not impose additional or more stringent requirements than the existing standard, State-Plan States need not amend their standards, although OSHA encourages them to do so. The 26 States and U.S. Territories with OSHA-approved occupational safety and health plans are: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming; Connecticut, New Jersey, New York, and the Virgin Islands have OSHA-approved State Plans that apply only to State and local government employees.

With regard to this final rule, it will not impose any additional or more stringent requirements on employers compared to existing OSHA standards. Through this rulemaking, OSHA is updating the references in its regulations to recognize recent editions of the applicable national consensus standards, and deleting a number of outdated editions of the national consensus standards referenced in its existing PPE standards. The final rule does not require employers to update or replace their PPE solely as a result of this rulemaking if the PPE currently in

use meets the existing standards. Therefore, the final rule does not require action under 29 CFR 1953.5(a), and States and U.S. Territories with approved State Plans do not need to adopt this rule or show OSHA why such action is unnecessary. However, to the extent these States and Territories have the same standards as the OSHA standards affected by this final rule, OSHA encourages them to adopt the amendments.

F. Unfunded Mandates Reform Act

OSHA reviewed this final rule in accordance with the Unfunded Mandates Reform Act of 1995 (UMRA; 2 U.S.C. 1501 *et seq.*) and Executive Order 12875 (58 FR 58093). As discussed above in Section II.B (''Final Economic Analysis and Regulatory Flexibility Certification'') of this preamble, OSHA determined that this final rule imposes no additional costs on any private- or public-sector entity. Accordingly, this final rule requires no additional expenditures by either public or private employers.

As noted above under Section II.E (''State-Plan States''), OSHA's standards do not apply to State and local governments except in States that elected voluntarily to adopt a State Plan approved by the Agency. Consequently, this final rule does not meet the definition of a ''Federal intergovernmental mandate'' (*see* Section 421(5) of the UMRA (2 U.S.C. 658(5))). Therefore, for the purposes of the UMRA, the Agency certifies that this final rule does not mandate that State, local, or tribal governments adopt new, unfunded regulatory obligations, or increase expenditures by the private sector of more than $100 million in any year.

List of Subjects in 29 CFR Parts 1910, 1915, 1917, and 1918

Cutting and brazing, Eye and face protection, Foot protection, Head protection, Incorporation by reference, Ventilation, and Welding.

III. Authority and Signature

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

Signed at Washington, DC, this 28th day of August 2009.

Jordan Barab,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

Amendments to Standards

■ For the reasons stated above in the preamble, the Occupational Safety and Health Administration is amending 29 CFR parts 1910, 1915, 1917, and 1918 as follows:

PART 1910—[AMENDED]

Subpart A—[Amended]

■ 1. Revise the authority citation for subpart A of part 1910 to read as follows:

Authority: Sections 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), and 5–2007 (72 FR 31160), as applicable.

Sections 1910.7 and 1910.8 also issued under 29 CFR Part 1911. Section 1910.7(f) also issued under 31 U.S.C. 9701, 29 U.S.C. 9a, 5 U.S.C. 553; Public Law 106–113 (113 Stat. 1501A–222); and OMB Circular A–25 (dated July 8, 1993) (58 FR 38142, July 15, 1993).

■ 2. Amend § 1910.6 as follows:
■ a. Revise paragraphs (a)(2) and (a)(4)
■ b. Revise paragraph (e) introductory text
■ c. Revise paragraphs (e)(60), (e)(61), and (e)(67) through (e)(72)
■ d. Add new paragraphs (e)(73), (74), (75), (76), and (77)
■ e. Revise paragraph (h) introductory text
■ f. Add new paragraphs (h)(20) and (h)(21)

The additions and revisions read as follows:

§ 1910.6 Incorporation by reference.

(a) * * *

(2) Any changes in the standards incorporated by reference in this part and an official historic file of such changes are available for inspection in the Docket Office at the national office of the Occupational Safety and Health Administration, U.S. Department of Labor, Washington, DC 20910; telephone: 202–693–2350 (TTY number: 877–889–5627).

* * * * *

(4) Copies of standards listed in this section and issued by private standards organizations are available for purchase from the issuing organizations at the addresses or through the other contact information listed below for these private standards organizations. In addition, these standards are available for inspection at the National Archives and Records Administration (NARA). For information on the availability of these standards at NARA, telephone: 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* Also, the standards are available for inspection at any Regional Office of the Occupational Safety and Health Administration (OSHA), or at the OSHA Docket Office, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–2625, Washington, DC 20210; telephone: 202–693–2350 (TTY number: 877–889–5627).

* * * * *

(e) Except as noted, copies of the standards listed below in this paragraph are available for purchase from the American National Standards Institute (ANSI), 25 West 43rd Street, 4th Floor, New York, NY 10036; telephone: 212–642–4900; fax: 212–398–0023; Web site: *http://www.ansi.org.*

* * * * *

(60) ANSI Z41–1999, American National Standard for Personal Protection—Protective Footwear; IBR approved for § 1910.136(b)(1)(ii). Copies of ANSI Z41–1999 are available for purchase only from the National Safety Council, P.O. Box 558, Itasca, IL 60143–0558; telephone: 1–800–621–7619; fax: 708–285–0797; Web site: *http://www.nsc.org.*

(61) ANSI Z41–1991, American National Standard for Personal Protection—Protective Footwear; IBR approved for § 1910.136(b)(1)(iii). Copies of ANSI Z41–1991 are available for purchase only from the National Safety Council, P.O. Box 558, Itasca, IL 60143–0558; telephone: 1–800–621–7619; fax: 708–285–0797; Web site: *http://www.nsc.org.*

* * * * *

(67) ANSI Z87.1–2003, American National Standard Practice for Occupational and Educational Eye and Face Protection; IBR approved for §§ 1910.133(b)(1)(i) and 1910.252(b)(2)(ii)(I)(*1*). Copies of ANSI Z87.1–2003 are available for purchase only from the American Society of Safety Engineers, 1800 East Oakton Street, Des Plaines, IL 60018–2187; telephone: 847–699–2929; or from the International Safety Equipment Association (ISEA), 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *http://www.safetyequipment.org.*

(68) ANSI Z87.1–1989 (R–1998), American National Standard Practice for

Occupational and Educational Eye and Face Protection; IBR approved for § 1910.133(b) (1)(ii). Copies of ANSI Z87.1–1989 (R–1998) are available for purchase only from the American Society of Safety Engineers, 1800 East Oakton Street, Des Plaines, IL 60018–2187; telephone: 847–699–2929.

(69) ANSI Z87.1–1989, American National Standard Practice for Occupational and Educational Eye and Face Protection; IBR approved for § 1910.133(b)(1)(iii). Copies of ANSI Z87.1–1989 are available for purchase only from the American Society of Safety Engineers, 1800 East Oakton Street, Des Plaines, IL 60018–2187; telephone: 847–699–2929.

(70) ANSI Z88.2–1969, Practices for Respiratory Protection; IBR approved for §§ 1910.94(c)(6)(iii)(*a*), 1910.134(c); and 1910.261(a)(3)(xxvi), (b)(2), (f)(5), (g)(15)(v), (h)(2)(iii), (h)(2)(iv), and (i)(4).

(71) ANSI Z89.1–2003, American National Standard for Industrial Head Protection; IBR approved for § 1910.135(b)(1)(i). Copies of ANSI Z89.1–2003 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *http://www.safetyequipment.org*.

(72) ANSI Z89.1–1997, American National Standard for Industrial Head Protection; IBR approved for § 1910.135(b)(1)(ii). Copies of ANSI Z89.1–1997 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *http://www.safetyequipment.org*.

(73) ANSI Z89.1–1986, American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements; IBR approved for § 1910.135(b)(1)(iii).

(74) ANSI Z41.1–1967 Men's Safety Toe Footwear; IBR approved for § 1910.261(i)(4).

(75) ANSI Z87.1–1968 Practice of Occupational and Educational Eye and Face Protection; IBR approved for § 1910.261(a)(3)(xxv), (d)(1)(ii), (f)(5), (g)(1), (g)(15)(v), (g)(18)(ii), and (i)(4).

(76) ANSI Z89.1–1969 Safety Requirements for Industrial Head Protection; IBR approved for § 1910.261(a)(3)(xxvii), (b)(2), (g)(15)(v), and (i)(4).

(77) ANSI Z89.2–1971 Safety Requirements for Industrial Protective Helmets for Electrical Workers, Class B; IBR approved for § 1910.268(i)(1).

* * * * *

(h) Copies of the standards listed below in this paragraph are available for purchase from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959; telephone: 610–832–9585; fax: 610–832–9555; e-mail: s*eviceastm.org;* Web site: *http://www.astm.org*:

* * * * *

(20) ASTM F–2412–2005, Standard Test Methods for Foot Protection; IBR approved for § 1910.136(b)(1)(i).

(21) ASTM F–2413–2005, Standard Specification for Performance Requirements for Protective Footwear; IBR approved for § 1910.136(b)(1)(i).

* * * * *

Subpart G—[Amended]

■ 3. The authority citation for subpart G of part 1910 continues to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), or 5–2007 (72 FR 31160), as applicable; and 29 CFR part 1911.

■ 4. Revise paragraph (a)(5)(v)(*a*) of § 1910.94 to read as follows:

§ 1910.94 Ventilation.

(a) * * *

(5) * * *

(v) * * *

(*a*) Protective footwear must comply with the requirements specified by 29 CFR 1910.136(b)(1).

* * * * *

Subpart I—[Amended]

■ 5. Revise the authority citation for subpart I of part 1910 to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), or 5–2007 (72 FR 31160), as applicable.

Sections 1910.132, 1910.134, and 1910.138 of 29 CFR also issued under 29 CFR part 1911.

Sections 1910.133, 1910.135, and 1910.136 of 29 CFR also issued under 29 CFR part 1911 and 5 U.S.C. 553.

■ 6. Revise paragraph (b) of § 1910.133 to read as follows:

§ 1910.133 Eye and face protection.

* * * * *

(b) *Criteria for protective eye and face protection.* (1) Protective eye and face protection devices must comply with any of the following consensus standards:

(i) ANSI Z87.1–2003, ''American National Standard Practice for Occupational and Educational Eye and Face Protection,'' which is incorporated by reference in § 1910.6;

(ii) ANSI Z87.1–1989 (R–1998), ''American National Standard Practice for Occupational and Educational Eye and Face Protection,'' which is incorporated by reference in § 1910.6; or

(iii) ANSI Z87.1–1989, ''American National Standard Practice for Occupational and Educational Eye and Face Protection,'' which is incorporated by reference in § 1910.6.

(2) Protective eye and face protection devices that the employer demonstrates are at least as effective as protective eye and face protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

* * * * *

■ 7. Revise paragraph (b) of § 1910.135 to read as follows:

§ 1910.135 Head protection.

* * * * *

(b) *Criteria for head protection.* (1) Head protection must comply with any of the following consensus standards:

(i) ANSI Z89.1–2003, ''American National Standard for Industrial Head Protection,'' which is incorporated by reference in § 1910.6;

(ii) ANSI Z89.1–1997, ''American National Standard for Industrial Head Protection,'' which is incorporated by reference in § 1910.6; or

(iii) ANSI Z89.1–1986, ''American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements,'' which is incorporated by reference in § 1910.6.

(2) Head protection devices that the employer demonstrates are at least as effective as head protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

■ 8. Revise paragraph (b) of § 1910.136 to read as follows:

§ 1910.136 Foot protection.

* * * * *

(b) *Criteria for protective footwear.* (1) Protective footwear must comply with any of the following consensus standards:

(i) ASTM F–2412–2005, ''Standard Test Methods for Foot Protection,'' and ASTM F–2413–2005, ''Standard Specification for Performance

Requirements for Protective Footwear,'' which are incorporated by reference in § 1910.6;

(ii) ANSI Z41–1999, ''American National Standard for Personal Protection—Protective Footwear,'' which is incorporated by reference in § 1910.6; or

(iii) ANSI Z41–1991, ''American National Standard for Personal Protection—Protective Footwear,'' which is incorporated by reference in § 1910.6.

(2) Protective footwear that the employer demonstrates is at least as effective as protective footwear that is constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

■ 9. Add a paragraph at the end of paragraph 9 in Appendix B to subpart I that reads as follows:

Appendix B to Subpart I to Part 1910—Non-Mandatory Compliance Guidelines for Hazard Assessment and Personal Protective Equipment Selection

* * * * *

9. *Selection guidelines for head protection.*

* * *

Beginning with the ANSI Z89.1–1997 standard, ANSI updated the classification system for protective helmets. Prior revisions used type classifications to distinguish between caps and full brimmed hats. Beginning in 1997, Type I designated helmets designed to reduce the force of impact resulting from a blow only to the top of the head, while Type II designated helmets designed to reduce the force of impact resulting from a blow to the top or sides of the head. Accordingly, if a hazard assessment indicates that lateral impact to the head is foreseeable, employers must select Type II helmets for their employees. To improve comprehension and usefulness, the 1997 revision also redesignated the electrical-protective classifications for helmets as follows: ''Class G—General''; helmets designed to reduce the danger of contact with low-voltage conductors; ''Class E—Electrical''; helmets designed to reduce the danger of contact with conductors at higher voltage levels; and ''Class C—Conductive''; helmets that provide no protection against contact with electrical hazards.

* * * * *

Subpart Q—[Amended]

■ 10. The authority citation for subpart Q of part 1910 continues to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), or 5–2007 (72 FR 31160), as applicable; and 29 CFR part 1911.

■ 11. Revise paragraph (b)(2)(ii)(I) of § 1910.252 to read as follows:

§ 1910.252 General requirements.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(I) Filter lenses must meet the test for transmission of radiant energy prescribed by any of the consensus standards listed in 29 CFR 1910.133(b)(1).

* * * * *

PART 1915—[AMENDED]

■ 12. The authority citation for part 1915 continues to read as follows:

Authority: Section 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), or 5–2007 (72 FR 31160), as applicable; and 29 CFR part 1911.

Subpart A—[Amended]

■ 13. Amend § 1915.5 as follows:

■ a. Revise paragraphs (b) and (c).

■ b. Revise paragraph (d)(1) introductory text.

■ c. Revise paragraphs (d)(1)(iv) through (d)(1)(ix).

■ c. Add new paragraphs (d)(1)(x), and (d)(1)(xi).

■ d. Add new paragraph (d)(5).

The revision and additions read as follows:

§ 1915.5 Incorporation by reference.

* * * * *

(b)(1) The standards listed in paragraph (d) of this section are incorporated by reference in the corresponding sections noted as the sections exist on the date of the approval, and a notice of any change in these standards will be published in the **Federal Register**. The Director of the Federal Register approved these incorporations by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) Any changes in the standards incorporated by reference in this part and an official historic file of such changes are available for inspection in the Docket Office at the national office of the Occupational Safety and Health Administration, U.S. Department of Labor, Washington, DC 20910; telephone: 202–693–2350 (TTY number: 877–889–5627).

(c) Copies of standards listed in this section and issued by private standards organizations are available for purchase from the issuing organizations at the addresses or through the other contact information listed below for these private standards organizations. In addition, these standards are available for inspection at the National Archives and Records Administration (NARA). For information on the availability of these standards at NARA, telephone: 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*. Also, the standards are available for inspection at any Regional Office of the Occupational Safety and Health Administration (OSHA), or at the OSHA Docket Office, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–2625, Washington, DC 20210; telephone: 202–693–2350 (TTY number: 877–889–5627).

(d)(1) Except as noted, copies of the standards listed below in this paragraph are available for purchase from the American National Standards Institute (ANSI), 25 West 43rd Street, 4th Floor, New York, NY 10036; telephone: 212–642–4900; fax: 212–398–0023; Web site: *http://www.ansi.org*.

* * * * *

(iv) ANSI Z41–1999, American National Standard for Personal Protection—Protective Footwear; IBR approved for § 1915.156(b)(1)(ii). Copies of ANSI Z41–1999 are available for purchase only from the National Safety Council, P.O. Box 558, Itasca, IL 60143–0558; telephone: 1–800–621–7619; fax: 708–285–0797; Web site: *http://www.nsc.org*.

(v) ANSI Z41–1991, American National Standard for Personal Protection—Protective Footwear; IBR approved for § 1915.156(b)(1)(iii). Copies of ANSI Z41–1991 are available for purchase only from the National Safety Council, P.O. Box 558, Itasca, IL 60143–0558; telephone: 1–800–621–7619; fax: 708–285–0797; Web site: *http://www.nsc.org*.

(vi) ANSI Z87.1–2003, American National Standard Practice for Occupational and Educational Eye and Face Protection; IBR approved for § 1915.153(b)(1)(i). Copies of ANSI Z87.1–2003 are available for purchase only from the American Society of Safety Engineers, 1800 East Oakton Street, Des Plaines, IL 60018–2187; telephone: 847–699–2929; or from the International Safety Equipment Association (ISEA), 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *http://www.safetyequipment.org*.

(vii) ANSI Z87.1–1989 (R–1998), American National Standard Practice for Occupational and Educational Eye and Face Protection; IBR approved for § 1915.153(b)(1)(ii). Copies of ANSI Z87.1–1989 (R–1998) are available for purchase only from the American Society of Safety Engineers, 1800 East Oakton Street, Des Plaines, IL 60018–2187; telephone: 847–699–2929.

(viii) ANSI Z87.1–1989, American National Standard Practice for Occupational and Educational Eye and Face Protection; IBR approved for § 1915.153(b)(1)(iii).

(ix) ANSI Z89.1–2003, American National Standard for Industrial Head Protection; IBR approved for § 1915.155(b)(1)(i). Copies of ANSI Z89.1–2003 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *http://www.safetyequipment.org.*

(x) ANSI Z89.1–1997, American National Standard for Industrial Head Protection; IBR approved for § 1915.155(b)(1)(ii). Copies of ANSI Z89.1–1997 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *http://www.safetyequipment.org.*

(xi) ANSI Z89.1–1986, American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements; IBR approved for § 1915.155(b)(1)(iii).

* * * * *

(5) Copies of the standards listed below in this paragraph are available for purchase from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959; telephone: 610–832–9585; fax: 610–832–9555; e-mail: *seviceastm.org;* Web site: *http://www.astm.org*:

(i) ASTM F–2412–2005, Standard Test Methods for Foot Protection; IBR approved for § 1915.156(b)(1)(i).

(ii) ASTM F–2413–2005, Standard Specification for Performance Requirements for Protective Footwear; IBR approved for § 1915.156(b)(1)(i).

Subpart I—[Amended]

■ 14. Revise paragraph (b) of § 1915.153 to read as follows:

§ 1915.153 Eye and face protection.

* * * * *

(b) *Criteria for protective eye and face devices.* (1) Protective eye and face protection devices must comply with any of the following consensus standards:

(i) ANSI Z87.1–2003, ''American National Standard Practice for Occupational and Educational Eye and Face Protection,'' which is incorporated by reference in § 1915.5;

(ii) ANSI Z87.1–1989 (R–1998), ''American National Standard Practice for Occupational and Educational Eye and Face Protection,'' which is incorporated by reference in § 1915.5; or

(iii) ANSI Z87.1–1989, ''American National Standard Practice for Occupational and Educational Eye and Face Protection,'' which is incorporated by reference in § 1915.5.

(2) Eye and face protection devices that the employer demonstrates are at least as effective as protective as eye and face protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

■ 15. Revise paragraph (b) of § 1915.155 to read as follows:

§ 1915.155 Head protection.

* * * * *

(b) *Criteria for protective helmets.* (1) Head protection must comply with any of the following consensus standards:

(i) ANSI Z89.1–2003, ''American National Standard for Industrial Head Protection,'' which is incorporated by reference in § 1915.5;

(ii) ANSI Z89.1–1997, ''American National Standard for Industrial Head Protection,'' which is incorporated by reference in § 1915.5; or

(iii) ANSI Z89.1–1986, ''American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements,'' which is incorporated by reference in § 1915.5.

(2) Head protection devices that the employer demonstrates are at least as effective as head protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

■ 16. Revise paragraph (b) of § 1915.156 to read as follows:

§ 1915.156 Foot protection.

* * * * *

(b) *Criteria for protective footwear.* (1) Protective footwear must comply with any of the following consensus standards:

(i) ASTM F–2412–2005, ''Standard Test Methods for Foot Protection,'' and ASTM F–2413–2005, ''Standard Specification for Performance Requirements for Protective Footwear,'' which are incorporated by reference in § 1915.5;

(ii) ANSI Z41–1999, ''American National Standard for Personal Protection—Protective Footwear,'' which is incorporated by reference in § 1915.5; or

(iii) ANSI Z41–1991, ''American National Standard for Personal Protection—Protective Footwear,'' which is incorporated by reference in § 1915.5.

(2) Protective footwear that the employer demonstrates is at least as effective as protective footwear that is constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

PART 1917—[AMENDED]

■ 17. Revise the authority citation for part 1917 to read as follows:

Authority: Section 41, Longshore and Harbor Worker's Compensation Act (33 U.S.C. 941); Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), or 5–2007 (72 FR 31160), as applicable; and 29 CFR part 1911.

Subpart A—[Amended]

■ 18. Amend 1917.3 as follows:

■ a. Revise paragraphs (a)(2), (a)(3), and (a)(4).

■ b. Revise paragraph (b) introductory text.

■ c. Revise paragraphs (b)(4) through (b)(7).

■ d. Add new paragraphs (b)(8) through (b)(12).

■ e. Add new paragraph (c).

The revisions and additions read as follows:

§ 1917.3 Incorporation by reference.

(a) * * *

(2) The standards listed in paragraph (b) of this section are incorporated by reference in the corresponding sections noted as the sections exist on the date of the approval, and a notice of any change in these standards will be published in the **Federal Register**. The Director of the Federal Register approved these incorporations by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(3) Any changes in the standards incorporated by reference in this part and an official historic file of such changes are available for inspection in the Docket Office at the national office of the Occupational Safety and Health

Administration, U.S. Department of Labor, Washington, DC 20910; telephone: 202–693–2350 (TTY number: 877–889–5627).

(4) Copies of standards listed in this section and issued by private standards organizations are available for purchase from the issuing organizations at the addresses or through the other contact information listed below for these private standards organizations. In addition, these standards are available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, telephone: 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* Also, the material is available for inspection at any Regional Office of the Occupational Safety and Health Administration (OSHA), or at the OSHA Docket Office, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–2625, Washington, DC 20210; telephone: 202–693–2350 (TTY number: 877–889–5627).

(b) Except as noted, copies of the standards listed below in this paragraph are available for purchase from the American National Standards Institute (ANSI), 25 West 43rd Street, 4th Floor, New York, NY 10036; telephone: 212–642–4900; fax: 212–398–0023; Web site: *http://www.ansi.org.*

* * * * *

(4) ANSI Z41–1999, American National Standard for Personal Protection—Protective Footwear; IBR approved for § 1917.94(b)(1)(ii). Copies of ANSI Z41–1999 are available for purchase only from the National Safety Council, P.O. Box 558, Itasca, IL 60143–0558; telephone: 1–800–621–7619; fax: 708–285–0797; Web site: *http://www.nsc.org.*

(5) ANSI Z41–1991, American National Standard for Personal Protection—Protective Footwear; IBR approved for § 1917.94(b)(1)(iii). Copies of ANSI Z41–1991 are available for purchase only from the National Safety Council, P.O. Box 558, Itasca, IL 60143–0558; telephone: 1–800–621–7619; fax: 708–285–0797; Web site: *http://www.nsc.org.*

(6) ANSI Z87.1–2003, American National Standard Practice for Occupational and Educational Eye and Face Protection; IBR approved for § 1917.91(a)(1)(i)(A). Copies of ANSI Z87.1–2003 are available for purchase only from the American Society of Safety Engineers, 1800 East Oakton Street, Des Plaines, IL 60018–2187; telephone: 847–699–2929; or from the International Safety Equipment Association (ISEA), 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *http://www.safetyequipment.org.*

(7) ANSI Z87.1–1989 (R–1998), American National Standard Practice for Occupational and Educational Eye and Face Protection; IBR approved for § 1917.91(a)(1)(i)(B). Copies of ANSI Z87.1–1989 (R–1998) are available for purchase only from the American Society of Safety Engineers, 1800 East Oakton Street, Des Plaines, IL 60018–2187; telephone: 847–699–2929.

(8) ANSI Z87.1–1989, American National Standard Practice for Occupational and Educational Eye and Face Protection; IBR approved for § 1917.91(a)(1)(i)(C). Copies of ANSI Z87.1–1989 are available for purchase only from the American Society of Safety Engineers, 1800 East Oakton Street, Des Plaines, IL 60018–2187; telephone: 847–699–2929.

(9) ANSI Z89.1–2003, American National Standard for Industrial Head Protection; IBR approved for § 1917.93(b)(1)(i). Copies of ANSI Z89.1–2003 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *http://www.safetyequipment.org.*

(10) ANSI Z89.1–1997, American National Standard for Industrial Head Protection; IBR approved for § 1917.93(b)(1)(ii). Copies of ANSI Z89.1–1997 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *http://www.safetyequipment.org.*

(11) ANSI Z89.1–1986, American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements; IBR approved for § 1917.93(b)(1)(iii).

(12) ASME B56.1, 1959, Safety Code for Powered Industrial Trucks, pages 8 and 13; IBR approved for § 1917.50(j)(1).

(c) Copies of the following standards are available for purchase from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959; telephone: 610–832–9585; fax: 610–832–9555; e-mail: *seviceastm.org*; Web site: *http://www.astm.org*:

(1) ASTM F–2412–2005, Standard Test Methods for Foot Protection; IBR approved for § 1917.94(b)(1)(i).

(2) ASTM F–2413–2005, Standard Specification for Performance Requirements for Protective Footwear; IBR approved for § 1917.94(b)(1)(i).

Subpart E—[Amended]

■ 19. Revise paragraph (a)(1) of § 1917.91 to read as follows:

§ 1917.91 Eye and face protection.

(a)(1)(i) The employer shall ensure that each affected employee uses protective eye and face protection devices that comply with any of the following consensus standards:

(A) ANSI Z87.1–2003, ''American National Standard Practice for Occupational and Educational Eye and Face Protection,'' which is incorporated by reference in § 1917.3;

(B) ANSI Z87.1–1989 (R–1998), ''American National Standard Practice for Occupational and Educational Eye and Face Protection,'' which is incorporated by reference in § 1917.3; or

(C) ANSI Z87.1–1989, ''American National Standard Practice for Occupational and Educational Eye and Face Protection,'' which is incorporated by reference in § 1917.3.

(ii) Protective eye and face protection devices that the employer demonstrates are at least as effective as protective eye and face protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

* * * * *

■ 20. Revise paragraph (b) of § 1917.93 to read as follows:

§ 1917.93 Head protection.

* * * * *

(b)(1) The employer must ensure that head protection complies with any of the following consensus standards:

(i) ANSI Z89.1–2003, ''American National Standard for Industrial Head Protection,'' which is incorporated by reference in § 1917.3;

(ii) ANSI Z89.1–1997, ''American National Standard for Industrial Head Protection,'' which is incorporated by reference in § 1917.3; or

(iii) ANSI Z89.1–1986, ''American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements,'' which is incorporated by reference in § 1917.3.

(2) Head protection devices that the employer demonstrates are at least as effective as head protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

* * * * *

■ 21. Revise paragraph (b) of § 1917.94 to read as follows:

§ 1917.94 Foot protection.

* * * * *

(b)(1) The employer must ensure that protective footwear complies with any of the following consensus standards:

(i) ASTM F–2412–2005, ''Standard Test Methods for Foot Protection,'' and ASTM F–2413–2005, ''Standard Specification for Performance Requirements for Protective Footwear,'' which are incorporated by reference in § 1917.3;

(ii) ANSI Z41–1999, ''American National Standard for Personal Protection—Protective Footwear,'' which is incorporated by reference in § 1917.3; or

(iii) ANSI Z41–1991, ''American National Standard for Personal Protection—Protective Footwear,'' which is incorporated by reference in § 1917.3.

(2) Protective footwear that the employer demonstrates is at least as effective as protective footwear that is constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

PART 1918—[AMENDED]

■ 22. Revise the authority citation for part 1918 to read as follows:

Authority: Section 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), or 5–2007 (72 FR 31160), as applicable; and 29 CFR part 1911.

Subpart A—[Amended]

■ 23. Amend 1918.3 as follows:

■ a. Revise paragraphs (a)(2), (a)(3), and (a)(4).

■ b. Revise paragraph (b) introductory text.

■ c. Revise paragraphs (b)(4) through (b)(6).

■ d. Add new paragraphs (b)(7) through (b)(11).

■ e. Add new paragraph (c).

The revisions and additions read as follows:

§ 1918.3 Incorporation by reference.

(a) * * *

(2) The standards listed in paragraph (b) of this section are incorporated by reference in the corresponding sections noted as the sections exist on the date of the approval, and a notice of any change in these standards will be published in the **Federal Register.** The Director of the Federal Register approved these incorporations by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(3) Any changes in the standards incorporated by reference in this part and an official historic file of such changes are available for inspection in the Docket Office at the national office of the Occupational Safety and Health Administration, U.S. Department of Labor, Washington, DC 20910; telephone: 202–693–2350 (TTY number: 877–889–5627).

(4) Copies of standards listed in this section and issued by private standards organizations are available for purchase from the issuing organizations at the addresses or through the other contact information listed below for these private standards organizations. In addition, these standards are available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, telephone: 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* Also, the standards are available for inspection at any Regional Office of the Occupational Safety and Health Administration (OSHA), or at the OSHA Docket Office, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–2625, Washington, DC 20210; telephone: 202–693–2350 (TTY number: 877–889–5627). (b) Except as noted, copies of the standards listed below in this paragraph are available for purchase from the American National Standards Institute (ANSI), 25 West 43rd Street, 4th Floor, New York, NY 10036; telephone: 212–642–4900; fax: 212–398–0023; Web site:

* * * * *

(4) ANSI Z41–1999, American National Standard for Personal Protection—Protective Footwear; IBR approved for § 1918.104(b)(1)(ii). Copies of ANSI Z41–1999 are available for purchase only from the National Safety Council, P.O. Box 558, Itasca, IL 60143–0558; telephone: 1–800–621–7619; fax: 708–285–0797; Web site: *http://www.nsc.org.*

(5) ANSI Z41–1991, American National Standard for Personal Protection—Protective Footwear; IBR approved for § 1918.104(b)(1)(iii). Copies of ANSI Z41–1991 are available for purchase only from the National Safety Council, P.O. Box 558, Itasca, IL 60143–0558; telephone: 1–800–621–7619; fax: 708–285–0797; Web site: *http://www.nsc.org.*

(6) ANSI Z87.1–2003, American National Standard Practice for Occupational and Educational Eye and Face Protection; IBR approved for § 1918.101(a)(1)(i)(A). Copies of ANSI Z87.1–2003 are available for purchase only from the American Society of Safety Engineers, 1800 East Oakton Street, Des Plaines, IL 60018–2187; telephone: 847–699–2929; or from the International Safety Equipment Association (ISEA), 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *http://www.safetyequipment.org.*

(7) ANSI Z87.1–1989 (R–1998), American National Standard Practice for Occupational and Educational Eye and Face Protection; IBR approved for § 1918.101(a)(1)(i)(B). Copies of ANSI Z87.1–1989 (R1998) are available for purchase only from the American Society of Safety Engineers, 1800 East Oakton Street, Des Plaines, IL 60018–2187; telephone: 847–699–2929.

(8) ANSI Z87.1–1989, American National Standard Practice for Occupational and Educational Eye and Face Protection; IBR approved for § 1918.101(a)(1)(i)(C). Copies of ANSI Z87.1–1989 are available for purchase only from the American Society of Safety Engineers, 1800 East Oakton Street, Des Plaines, IL 60018–2187; telephone: 847–699–2929.

(9) ANSI Z89.1–2003, American National Standard for Industrial Head Protection; IBR approved for § 1918.103(b)(1)(i). Copies of ANSI Z89.1–2003 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *http://www.safetyequipment.org.*

(10) ANSI Z89.1–1997, American National Standard for Industrial Head Protection; IBR approved for § 1918.103(b)(1)(ii). Copies of ANSI Z89.1–1997 are available for purchase only from the International Safety Equipment Association, 1901 North Moore Street, Arlington, VA 22209–1762; telephone: 703–525–1695; fax: 703–528–2148; Web site: *http://www.safetyequipment.org.*

(11) ANSI Z89.1–1986, American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements; IBR approved for § 1918.103(b)(1)(iii).

(c) Copies of the following standards are available for purchase from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959; telephone: 610–832–9585; fax: 610–832–9555; e-mail:

seviceastm.org; Web site: *http://www.astm.org.*

(1) ASTM F–2412–2005, Standard Test Methods for Foot Protection; IBR approved for § 1917.94(b)(1)(i).

(2) ASTM F–2413–2005, Standard Specification for Performance Requirements for Protective Footwear; IBR approved for § 1917.94(b)(1)(i).

Subpart J—[Amended]

■ 24. Revise paragraph (a)(1) of § 1918.101 to read as follows:

§ 1918.101 Eye and face protection.

(a) * * *

(1)(i) Employers must ensure that each employee uses appropriate eye and/or face protection when the employee is exposed to an eye or face hazard, and that protective eye and face devices comply with any of the following consensus standards:

(A) ANSI Z87.1–2003, ''American National Standard Practice for Occupational and Educational Eye and Face Protection,'' which is incorporated by reference in § 1918.3;

(B) ANSI Z87.1–1989 (R1998), ''American National Standard Practice for Occupational and Educational Eye and Face Protection,'' which is incorporated by reference in § 1918.3; or

(C) ANSI Z87.1–1989, ''American National Standard Practice for Occupational and Educational Eye and Face Protection,'' which is incorporated by reference in § 1918.3.

(ii) Protective eye and face protection devices that the employer demonstrates are at least as effective as protective eye and face protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

* * * * *

■ 25. Revise paragraph (b) of § 1918.103 to read as follows:

§ 1918.103 Head protection.

* * * * *

(b)(1) The employer must ensure that head protection complies with any of the following consensus standards:

(i) ANSI Z89.1–2003, ''American National Standard for Industrial Head Protection,'' which is incorporated by reference in § 1918.3;

(ii) ANSI Z89.1–1997, ''American National Standard for Industrial Head Protection,'' which is incorporated by reference in § 1918.3; or

(iii) ANSI Z89.1–1986, ''American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements,'' which is incorporated by reference in § 1918.3.

(2) Head protection devices that the employer demonstrates are at least as effective as head protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

* * * * *

■ 26. Revise paragraph (b) of § 1918.104 to read as follows:

§ 1918.104 Foot protection.

* * * * *

(b)(1) The employer must ensure that protective footwear complies with any of the following consensus standards:

(i) ASTM F–2412–2005, ''Standard Test Methods for Foot Protection,'' and ASTM F–2413–2005, ''Standard Specification for Performance Requirements for Protective Footwear,'' which are incorporated by reference in § 1918.3;

(ii) ANSI Z41–1999, ''American National Standard for Personal Protection—Protective Footwear,'' which is incorporated by reference in § 1918.3; or

(iii) ANSI Z41–1991, ''American National Standard for Personal Protection—Protective Footwear,'' which is incorporated by reference in § 1918.3.

(2) Protective footwear that the employer demonstrates is at least as effective as protective footwear that is constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

[FR Doc. E9–21360 Filed 9–8–09; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 538

Sudanese Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is amending the Sudanese Sanctions Regulations by issuing a general license that authorizes the exportation and reexportation of agricultural commodities, medicine, and medical devices to the Specified Areas of Sudan, as well as the conduct of related transactions. The Specified Areas of Sudan are defined as Southern Sudan, Southern Kordofan/Nuba Mountains State, Blue Nile State, Abyei, Darfur, and marginalized areas in and around Khartoum. OFAC also is making conforming changes to the Sudanese Sanctions Regulations to reflect this authorization.

DATES: *Effective Date:* September 9, 2009.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Compliance, Outreach and Implementation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Assistant Director for Policy, tel.: 202/622–4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

The Sudanese Sanctions Regulations, 31 CFR part 538 (the ''SSR''), were promulgated to implement Executive Order 13067 of November 3, 1997 (62 FR 59989, November 5, 1997) (''E.O. 13067''), in which the President declared a national emergency with respect to the policies and actions of the Government of Sudan.

To deal with that emergency, E.O. 13067 imposed comprehensive trade sanctions with respect to Sudan and blocked all property and interests in property of the Government of Sudan in the United States or within the possession or control of United States persons.

Subsequently, on October 13, 2006, the President signed the Darfur Peace and Accountability Act of 2006 (Pub. L. 109–344, 120 Stat. 1869) (''DPAA'') and issued Executive Order 13412 of October 13, 2006 (71 FR 61369, October 17, 2006) (''E.O. 13412''). The DPAA and E.O. 13412, *inter alia*, exempt the Specified Areas of Sudan from certain prohibitions set forth in E.O. 13067, and define the term *Specified Areas of Sudan* to include Southern Sudan, Southern Kordofan/Nuba Mountains State, Blue Nile State, Abyei, Darfur, and marginalized areas in and around Khartoum. While E.O. 13412 exempted the Specified Areas of Sudan from certain prohibitions in E.O. 13067, it continued the country-wide blocking of the Government of Sudan's property and interests in property and imposed a new country-wide prohibition on

transactions relating to Sudan's petroleum or petrochemical industries. E.O. 13412 also removed the regional Government of Southern Sudan from the definition of the term *Government of Sudan* set forth in E.O. 13067. OFAC issued amendments to the SSR implementing E.O. 13412 on October 31, 2007 (72 FR 61513, October 31, 2007).

OFAC today is further amending the SSR to resolve a tension between E.O. 13412 and the DPAA on the one hand, and the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7201–7211) (''TSRA'') on the other. Pursuant to E.O. 13412 and the DPAA, most trade and related activities—other than trade with the Government of Sudan or relating to Sudan's petroleum or petrochemical industries—are allowed with the Specified Areas of Sudan. These Specified Areas, however, remained subject to regulations promulgated pursuant to section 906(a)(1) of TSRA, which provides that the export of agricultural commodities, medicine, and medical devices to the government of a country that has been determined by the Secretary of State, under section 6(j) of the Export Administration Act of 1979, 50 U.S.C. App. 2405(j) (the ''EAA''), to have repeatedly provided support for acts of international terrorism, or to any entity in such a country, shall be made pursuant to one-year licenses issued by the United States government.

Because Sudan has been determined by the Secretary of State to be a country that has repeatedly provided support for acts of international terrorism pursuant to section 6(j) of the EAA, the entire country remained subject to TSRA's licensing requirements under the SSR. The overlap of TSRA with E.O. 13412 and the DPAA—as previously implemented in the SSR—resulted in the requirement that OFAC authorize the export of agricultural and medical items to the Specified Areas of Sudan, even though no OFAC authorization was required to export most other items to those areas.

Therefore, in view of the underlying policy objectives and findings concerning the Specified Areas of Sudan that resulted in the elimination of most of the previous economic sanctions against these areas within Sudan, including export sanctions analogous to those covered by TSRA, OFAC has determined that specific licenses for TSRA-related transactions with respect to the Specified Areas of Sudan should no longer be required. Instead, OFAC is authorizing such transactions through a general license, set forth at SSR § 538.523(a)(2), provided that such transactions do not involve any property or interests in property of the Government of Sudan or relate to the petroleum or petrochemical industries in Sudan. In accordance with the requirements set forth in section 906(a)(1) of TSRA, this general license covers exports shipped within the twelve-month period beginning on the date of the signing of the export contract. In addition, each year by the anniversary of its effective date on September 9, 2009, OFAC will determine whether to revoke the general license. Unless revoked, the general license will remain in effect. However, specific licenses for TSRA-related transactions with respect to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas of Sudan, or to persons in third countries purchasing specifically for resale to the foregoing are still required.

Existing prohibitions and safeguards satisfy TSRA's requirement that procedures be in place to deny the general license for exports to entities within Sudan promoting international terrorism. For instance, the requirement that no U.S. person engage in any transaction with anyone on OFAC's List of Specially Designated Nationals and Blocked Persons, including persons designated under the terrorism programs administered by OFAC, provides a mechanism for denying TSRA-related exports to certain entities within the Specified Areas of Sudan. In addition, if it deems necessary, OFAC may amend, modify, or revoke the new general license pursuant to § 501.803 of the Reporting, Procedures and Penalties Regulations, 31 CFR part 501 (the ''RPPR''), which set forth standard reporting and recordkeeping requirements and license application and other procedures governing transactions regulated pursuant to other parts of 31 CFR chapter V. Section 538.502 of the SSR similarly provides OFAC with the authority to exclude any person, property, or transaction from the operation of the general license or to restrict the applicability of the general license with respect to any persons, property, or transactions. Finally, the requirement that all U.S. persons maintain records of any transaction subject to OFAC-administered sanctions for a period of not less than five years pursuant to RPPR § 501.601, and OFAC's authority to obtain these records pursuant to RPPR § 501.602, allow OFAC to monitor activities under the general license in order to determine whether it should exercise these authorities.

Those transactions now authorized by the general license set forth at § 538.523(a)(2) of the SSR include the sale, exportation, and reexportation of agricultural commodities, medicine, and medical devices, the financing of and payment for such sales, and the brokering of TSRA sales. However, the transshipment or transit of TSRA-related exports through areas of Sudan other than the Specified Areas of Sudan, and any related financial transactions that are routed through depository institutions located in an area of Sudan other than the Specified Areas, remain prohibited under §§ 538.417 and 538.418 of the SSR.

Public Participation

Because the amendment of 31 CFR part 538 involves a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553), requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to 31 CFR part 538 are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. 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 control number.

List of Subjects in 31 CFR Part 538

Administrative practice and procedure, Banks, Banking, Blocking of assets, Exports, Foreign trade, Humanitarian aid, Imports, Penalties, Reporting and recordkeeping requirements, Specially designated nationals, Sudan, Terrorism, Transportation.

■ For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control amends 31 CFR part 538 as follows:

PART 538—SUDANESE SANCTIONS REGULATIONS

■ 1. Revise the authority citation for part 538 to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2339B, 2332d; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Public Law 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); 22 U.S.C. 7201–7211; Public Law 109–344, 120 Stat. 1869; Public Law 110–96, 121 Stat. 1011; E.O. 13067, 62 FR 59989, 3 CFR, 1997 Comp., p. 230; E.O. 13412, 71 FR 61369, 3 CFR, 2006 Comp., p. 244.

Subpart B—Prohibitions

■ 2. Revise the note to § 538.212(g)(2) to read as follows:

§ 538.212 Exempt transactions.

* * * * *

(g) * * *

(2) * * *

Note to § 538.212(g)(2): See § 538.523(a)(2) for a general license authorizing the exportation and reexportation of agricultural commodities, medicine, and medical devices to the Specified Areas of Sudan, and the conduct of related transactions.

Subpart D—Interpretations

■ 3. Amend § 538.405 by revising paragraph (d) to read as follows:

§ 538.405 Transactions incidental to a licensed transaction authorized.

* * * * *

(d) Financing of licensed sales for exportation or reexportation of agricultural commodities or products, medicine, or medical equipment to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas of Sudan, or to persons in third countries purchasing specifically for resale to the foregoing. See § 538.525.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

■ 4. Amend § 538.523 by redesignating paragraph (a), paragraph (b), and the introductory text to paragraph (c) to read as follows:

§ 538.523 Commercial sales, exportation, and reexportation of agricultural commodities, medicine, and medical devices.

(a)(1) *One-year specific license requirement.* The exportation or reexportation of agricultural commodities (including bulk agricultural commodities listed in appendix A to this part 538), medicine, or medical devices to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas of Sudan, or to persons in third countries purchasing specifically for resale to the foregoing, shall only be made pursuant to a one-year specific license issued by the U.S. Department of the Treasury, Office of Foreign Assets Control, for contracts entered into during the one-year period of the license and shipped within the 12-month period beginning on the date of the signing of the contract. No specific license will be granted for the exportation or reexportation of agricultural commodities, medicine, or medical equipment to any entity or individual in Sudan promoting international terrorism, to any narcotics trafficking entity designated pursuant to Executive Order 12978 of October 21, 1995 (60 FR 54579, October 24, 1995) or the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901–1908), or to any foreign organization, group, or persons subject to any restriction for its involvement in weapons of mass destruction or missile proliferation. Executory contracts entered into pursuant to paragraph (b)(2) of this section prior to the issuance of the one-year specific license described in this paragraph shall be deemed to have been signed on the date of issuance of that one-year specific license (and, therefore, the exporter is authorized to make shipments under that contract within the 12-month period beginning on the date of issuance of the one-year specific license).

(2) *General license for the Specified Areas of Sudan.* The exportation or reexportation of agricultural commodities (including bulk agricultural commodities listed in appendix A to this part 538), medicine, and medical devices to the Specified Areas of Sudan and the conduct of related transactions, including, but not limited to, the making of shipping and cargo inspection arrangements, the obtaining of insurance, the arrangement of financing and payment, the entry into executory contracts, and the provision of brokerage services for such sales and exports or reexports, are hereby authorized, provided that such activities or transactions do not involve any property or interests in property of the Government of Sudan and do not relate to the petroleum or petrochemical industries in Sudan, and also provided that all such exports or reexports are shipped within the 12-month period beginning on the date of the signing of the contract for export or reexport.

Note 1 to § 538.523(a)(2): Consistent with section 906(a)(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7205), each year by the anniversary of its effective date of September 9, 2009, the Office of Foreign Assets Control will determine whether to revoke this general license. Unless revoked, the general license will remain in effect.

Note 2 to § 538.523(a)(2): See §§ 538.417 and 538.418 for additional requirements with respect to transshipments through, and financial transactions in, Sudan.

(b) *General license for arrangement of exportation or reexportation of covered products.* (1) With respect to sales pursuant to § 538.523(a)(1), the making of shipping arrangements, cargo inspection, obtaining of insurance, and arrangement of financing (consistent with § 538.525) for the exportation or reexportation of agricultural commodities, medicine, or medical devices to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas of Sudan, or to persons in third countries purchasing specifically for resale to the foregoing, are authorized.

(2) If desired, entry into executory contracts (including executory pro forma invoices, agreements in principle, or executory offers capable of acceptance such as bids in response to public tenders) for the exportation or reexportation of agricultural commodities, medicine, and medical devices to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas of Sudan, or to persons in third countries purchasing specifically for resale to the foregoing, is authorized, provided that performance of an executory contract is expressly made contingent upon the prior issuance of the one-year specific license described in paragraph (a)(1) of this section.

(c) *Instructions for obtaining one-year specific licenses.* In order to obtain the one-year specific license described in paragraph (a)(1) of this section, the exporter must provide to the Office of Foreign Assets Control:

* * * * *

■ 5. Amend § 538.525 by revising paragraphs (a) introductory text and (b) to read as follows:

§ 538.525 Payment for and financing of commercial sales of agricultural commodities, medicine, and medical equipment.

(a) *General license for payment terms.* The following payment terms for sales, pursuant to § 538.523(a)(1), of agricultural commodities and products, medicine, and medical equipment to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas, or to persons in third countries purchasing specifically for resale to the foregoing are authorized:

* * * * *

(b) *Specific licenses for alternate payment terms.* Specific licenses may be issued on a case-by-case basis for

payment terms and trade financing not authorized by the general license in paragraph (a) of this section for sales pursuant to § 538.523(a)(1). See § 501.801(b) of this chapter for specific licensing procedures.

* * * * *

■ 6. Amend § 538.526 by revising paragraph (a), the introductory text of paragraph (b), and paragraph (b)(2) to read as follows:

§ 538.526 Brokering sales of agricultural commodities, medicine, and medical devices.

(a) *General license for brokering sales by U.S. persons.* United States persons are authorized to provide brokerage services on behalf of U.S. persons for the sale and exportation or reexportation by United States persons of agricultural commodities, medicine, and medical devices to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas of Sudan, or to persons in third countries purchasing specifically for resale to the foregoing, provided that the sale and exportation or reexportation is authorized by a one-year specific license issued pursuant to § 538.523(a)(1).

(b) *Specific licensing for brokering sales by non-U.S. persons of bulk agricultural commodities.* Specific licenses may be issued on a case-by-case basis to permit United States persons to provide brokerage services on behalf of non-United States, non-Sudanese persons for the sale and exportation or reexportation of bulk agricultural commodities to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas of Sudan, or to persons in third countries purchasing specifically for resale to the foregoing. Specific licenses issued pursuant to this section will authorize the brokering only of sales that:

* * * * *

(2) Are to purchasers permitted pursuant to § 538.523(a)(1); and

* * * * *

Dated: September 1, 2009.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E9–21553 Filed 9–8–09; 8:45 am]

BILLING CODE 4811–45–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2009–0749]

RIN 1625–AA08

Special Local Regulation for Marine Events; Choptank River, Cambridge, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily suspending the existing enforcement period of a special local regulation for a recurring marine event in the Fifth Coast Guard District and adding a temporary enforcement period. This regulation applies to only one recurring marine event, the ''Cambridge Offshore Challenge'' power boat race. A special local regulation is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the Choptank River, MD, during the event.

DATES: In the Table to 33 CFR 100.501, the suspension of line No. 27 is effective from September 9, 2009 to September 30, 2009; and the addition of line No. 64 is effective from 9 a.m. to 6 p.m., on September 19, 2009, and from 9 a.m. to 6 p.m., on September 20, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2009–0749 and are available online by going to *http://www.regulations.gov*, inserting USCG–2009–0749 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Dennis Sens, Project Manager, Fifth Coast Guard District, Prevention Division, at 757–398–6204 or e-mail at *Dennis.M.Sens@uscg.mil*. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is needed to minimize potential danger to the public during the event. The potential dangers posed by a high speed power boat race conducted on the waterway with other vessel traffic makes a special local regulation necessary to provide for the safety of participants, spectator craft and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have this regulation in effect during the event. The Coast Guard will issue broadcast notice to mariners to advise vessel operators of navigational restrictions. On scene Coast Guard and local law enforcement vessels will also provide actual notice to mariners.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The potential dangers posed by boat races operating in close proximity to transiting vessels make special local regulation necessary. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, patrol vessels, spectator craft and other vessels transiting the event area. However, the Coast Guard will provide advance notifications to users of the effected waterways via marine information broadcasts, local notice to mariners, commercial radio stations and area newspapers.

Background and Purpose

Marine events are frequently held on the navigable waters within the boundary of the Fifth Coast Guard District. The on water activities that typically comprise marine events include sailing regattas, power boat races, swim races and holiday parades. For a description of the geographical area of each Coast Guard Sector—Captain of the Port Zone, please *see* 33 CFR 3.25.

This regulation temporarily suspends the enforcement period of a special local regulation for a recurring marine event within the Fifth Coast Guard District and temporarily adds a new

enforcement period. This regulation applies to one marine event in 33 CFR 100.501, Table to § 100.501.

Annually, the Chesapeake Bay Powerboat Association sponsors the ''Cambridge Offshore Challenge'', on the waters of the Choptank River at Cambridge, Maryland. The event consists of approximately 50 offshore power boats conducting high-speed competitive races between the Route 50 Bridge and Oystershell Point, MD. A fleet of spectator vessels is anticipated. The regulation at 33 CFR 100.501 is effective annually for the Cambridge Offshore Challenge marine event. The table to § 100.501, event No. 27 establishes the enforcement date for this marine event. This regulation temporarily suspends the enforcement date of ''September 4th or last Saturday and Sunday'' and temporarily adds the enforcement date of the third Saturday and Sunday in September, holding the marine event on September 19 and 20, 2009. The Chesapeake Bay Powerboat Association who is the sponsor for this event intends to hold this event annually; however, they have changed the date of the event for 2009 so that it is outside the scope of the existing enforcement period. A fleet of spectator vessels is anticipated to gather nearby to view the competition. Due to the need for vessel control during the power boat races, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels. Under provisions of 33 CFR 100.501, from 9 a.m. to 6 p.m. on September 19–20, 2009, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander.

Discussion of Rule

The Coast Guard will temporarily suspend the regulation at 33 CFR 100.501 by changing the date of enforcement in the table to § 100.501 to reflect that the event will be conducted in 2009 on the third Saturday and Sunday in September, September 19 and 20, 2009. This change is needed to accommodate the sponsor's schedule. The special local regulation will be enforced from 9 a.m. to 6 p.m. on September 19 and 20, 2009, and will restrict general navigation in the regulated area during the marine event. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area during the effective period. The regulated area is needed to control vessel traffic during the event to enhance the safety of participants and transiting vessels.

In addition to notice in the **Federal Register**, the maritime community will be provided extensive advance notification via the Local Notice to Mariners, and marine information broadcasts so mariners can adjust their plans accordingly.

Regulatory Analyses

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

Regulatory Planning and Review

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

This rule prevents traffic from transiting a portion of the Choptank River during specified events. The effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via marine information broadcasts, local radio stations and area newspapers so mariners can adjust their plans accordingly. Additionally, this rulemaking does not change the permanent regulated areas that have been published in 33 CFR 100.501, Table to § 100.501. In some cases vessel traffic may be able to transit the regulated area when the Coast Guard Patrol Commander deems it is safe to do so.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in the Choptank River where marine events are being held. This regulation will not have a significant impact on a substantial number of small entities because it will be enforced only during marine events that have been issued a permit by the Coast Guard Captain of the Port. The Captain of the Port will ensure that small entities are able to operate in the areas where events are occurring when it is safe to do so. In some cases, vessels will be able to safely transit around the regulated area at various times, and, with the permission of the Patrol Commander, vessels may transit through the regulated area. Before the enforcement period, the Coast Guard will issue maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of

their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction. This rule involves implementation of a regulation within 33 CFR Part 100 that applies to organized marine events on the navigable waters of the United States that may have potential for negative impact on the safety or other interests of waterway users and shore side activities in the event area. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, and sail board racing.

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

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. In the Table to § 100.501:

■ a. Suspend line No. 27 from September 9, 2009 to September 30, 2009; and

■ b. From 9 a.m. to 6 p.m., on September 19, 2009, and from 9 a.m. to 6 p.m., on September 20, 2009, add line No. 64.

The addition reads as follows:

§ 100.501 Special Local Regulations; Marine Events in the Fifth Coast Guard District.

* * * * *

Table To § 100.501.—All coordinates listed in the Table to § 100.501 reference Datum NAD 1983.

COAST GUARD SECTOR BALTIMORE—COTP ZONE

Number	Date	Event	Sponsor	Location
*	*	*	*	* *
64.	September 19–20, 2009	Cambridge Offshore Challenge power boat race.	Chesapeake Bay Power Boat Association.	The waters of the Choptank River, near Cambridge, Maryland, from shoreline to shoreline, bounded to the west by the Route 50 Bridge and bounded to the east by a line drawn along longitude 076° W, between Goose Point, MD and Oystershell Point, MD.

Dated: August 19, 2009.

Wayne E. Justice,

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

[FR Doc. E9–21562 Filed 9–8–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 138

[USCG–2005–21780]

RIN 1625–AA98

Financial Responsibility for Water Pollution (Vessels) and OPA 90 Limits of Liability (Vessels and Deepwater Ports)

AGENCY: Coast Guard, DHS.

ACTION: Announcement of Office of Management and Budget (OMB) approval of collection of information.

SUMMARY: The Coast Guard is announcing that the collection of information requirement under 33 CFR 138.85, entitled ''Financial Responsibility for Water Pollution (Vessels),'' has been approved by OMB under the Paperwork Reduction Act of 1995. The OMB control number is 1625–0046.

DATES: The collection of information requirement under 33 CFR 138.85 will be enforced from September 9, 2009.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document contact Mr. Benjamin White, National Pollution Funds Center, Coast Guard, telephone 202–493–6863, e-mail *Benjamin.H.White@uscg.mil.* If you have questions on viewing the docket (USCG–2005–21780), call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: On September 17, 2008, the Coast Guard published a final rule entitled ''Financial Responsibility for Water Pollution (Vessels) and OPA 90 Limits of Liability (Vessels and Deepwater Ports)'' (73 FR 53691) (COFR final rule), amending the Oil Pollution Act of 1990 (OPA 90) financial responsibility requirements, including the information collection requirements under 33 CFR 138.85. With the exception of this collection of information, the COFR final rule became effective on October 17, 2008.

This information collection under 33 CFR 138.85 requires operators of vessels to establish evidence of financial responsibility under OPA 90, 33 U.S.C. 2716, acceptable to the Director, National Pollution Funds Center, in an amount equal to or greater than the total applicable amounts determined under 33 CFR 138.80(f). As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the COFR final rule preamble stated that the Coast Guard would not enforce the collection of information requirements under 33 CFR 138.85 until the collection of information request was approved by OMB, and the Coast Guard published a notice in the **Federal Register** announcing that OMB approved and assigned a control number for the requirement.

The Coast Guard submitted the information collection request under § 138.85 of the COFR final rule to OMB for approval in accordance with the Paperwork Reduction Act of 1995. On July 15, 2009, OMB approved the collection of information and assigned the collection OMB Control Number 1625–0046 entitled ''Financial Responsibility for Water Pollution (Vessels), (33 CFR 138.85).'' The approval for this collection of information expires on July 31, 2012. A copy of the OMB notice of action is available in our online docket at *http://www.regulations.gov.*

Dated: September 1, 2009.

Craig A. Bennett,

Director, National Pollution Funds Center, U.S. Coast Guard.

[FR Doc. E9–21442 Filed 9–8–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2009–0317]

RIN 1625–AA87

Security Zone; Calcasieu River, Hackberry, LA

AGENCY: Coast Guard, DHS

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone on the waters of the Calcasieu River for the mooring basin at Cameron LNG in Hackberry, LA. The security zone is needed to protect vessels, waterfront facilities, the public, and other surrounding areas from destruction, loss, or injury caused by sabotage, subversive acts, accidents, or other actions of a similar nature. Entering this security zone is prohibited without permission from the Captain of the Port, Port Arthur or a designated representative.

DATES: This rule is effective from September 9, 2009 until November 30, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2009–0317 and are available online by going to *http://www.regulations.gov,* inserting USCG–2009–0317 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at two locations: The Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and at Coast Guard Marine Safety Unit Port Arthur, 2901 Turtle Creek Dr., Port Arthur, Texas 77642, between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT Clint Smith, Coast Guard Marine Safety Unit Lake Charles; Telephone (337) 491–7819, e-mail *Clint.P.Smith@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the facility will begin operations before a Notice and Comment period could be completed, and delaying the beginning of facility operations is impracticable due to the substantial expense and effort involved, and contrary to the public interest in having this facility operational.

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

Register with respect to this rule because the facility will begin operations before a thirty day period could be completed, and delaying the beginning of facility operations is impracticable due to the substantial expense and effort involved, and contrary to the public interest in having this facility operational.

Background and Purpose

Heightened awareness of potential terrorist acts requires enhanced security of our ports, harbors, and vessels. To enhance security, the Captain of the Port, Port Arthur is establishing a temporary security zone on the waters of the Calcasieu River in Hackberry, LA.

This zone will protect waterfront facilities, persons, and vessels from subversive or terrorist acts. Vessels operating within the Captain of the Port, Port Arthur Zone are potential targets of terrorist attacks, or platforms from which terrorist attacks may be launched upon other vessels, waterfront facilities, and adjacent population centers. By limiting access to this area, the Coast Guard is reducing potential methods of attack on this facility and vessels moored in the basin. Vessels having a need to enter this security zone must obtain permission from the Captain of the Port, Port Arthur or a designated representative prior to entry.

This rule is not designed to restrict access to vessels engaged, or assisting in commerce with waterfront facilities within this security zone, vessels operated by port authorities, vessels operated by waterfront facilities within the security zone, and vessels operated by federal, state, county or municipal agencies. By limiting access to this area the Coast Guard would reduce potential methods of attack on vessels, waterfront facilities, and adjacent population centers located within the zone. All vessels not exempted under the provisions of this proposed regulation desiring to enter this zone will be required to obtain permission from the Captain of the Port, Port Arthur or a designated representative prior to entry.

Discussion of Rule

The Captain of the Port, Port Arthur is establishing a temporary security zone on the waters of the Calcasieu River for the mooring basin at Cameron LNG in Hackberry, LA. The coordinates and locations of the security zone are as follows: All waters encompassed by a line connecting the following points, beginning at 30°02′33″ N, 093°19′53″ W, east to a point at 30°02′34″ N, 093°19′50″ W, south to a point at 30°02′07″ N, 093°19′52″ W and east to a point at 30°02′10″ N, 93°19′59″ W, then along the shoreline to the beginning point. This security zone will be part of a comprehensive port security regime designed to safeguard human life, vessels, and waterfront facilities against sabotage or terrorist attacks.

All vessels not exempted under this rule will be prohibited from entering the proposed security zone unless authorized by the Captain of the Port, Port Arthur or a designated representative. For authorization to enter the proposed security zone vessels can contact the Captain of the Port, Port Arthur through Vessel Traffic Service Port Arthur on VHF Channel 13, by telephone at (409) 719–5070, or by facsimile at (409) 719–5090.

Regulatory Analyses

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

Regulatory Planning and Review

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. The rule does not affect traffic operating in navigable channels. Moreover, vessels may still enter the security zone with permission from the Captain of the Port.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit in and on the waters inside the mooring basin at Cameron LNG in Hackberry, LA. This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be effective in a location where traffic is minimal and for a limited time; and traffic will be allowed to enter the zone with permission from the Captain of the Port.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded under the Instruction that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final environmental analysis checklist and categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add a new temporary § 165.T08–0317 to read as follows:

§ 165.T08–0317 Security Zone; Calcasieu River, Hackberry, Louisiana.

(a) *Location.* The following area is a temporary security zone: Cameron LNG basin, all waters encompassed by a line connecting the following points, beginning at 30°02′33″ N, 093°19′53″ W, east to a point at 30°02′34″ N, 093°19′50″ W, south to a point at 30°02′07″ N, 093°19′52″ W and east to a point at 30°02′10″ N, 93° 19′59″ W, then along the shoreline to the beginning point.

(b) *Regulations:*

(1) Entry into or remaining in this zone is prohibited for all vessels except:

(i) Commercial vessels operating at waterfront facilities within this zone;

(ii) Commercial vessels transiting directly to or from waterfront facilities within this zone;

(iii) Vessels providing direct operational or logistical support to commercial vessels within this zone;

(iv) Vessels operated by the appropriate port authority or by facilities located within this zone; and

(v) Vessels operated by federal, state, county, or municipal agencies.

(2) Other persons or vessels requiring entry into the security zone described in this section must request permission from the Captain of the Port, Port Arthur or designated representatives.

(3) To request permission as required by these regulations, contact MSU Port Arthur by phone at (409) 719–5070.

(c) This is a temporary rule enabling the required security zone specifically for arrival of Cameron LNG's commissioning cargoes. There is a Notice of Rulemaking (NPRM) being drafted to propose this security zone permanently. Until the NPRM and subsequent final rule are official, this TFR allows for the security zone at Cameron LNG.

Dated: May 19, 2009.

J.J. Plunkett,

Captain, U.S. Coast Guard, Captain of the Port, Port Arthur.

Editorial Note: This document was received in the Office of the Federal Register on September 2, 2009.

[FR Doc. E9–21578 Filed 9–8–09; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2002–0043; FRL–8432–2]

Pesticide Tolerance Nomenclature Changes; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule makes minor revisions to the terminology of certain commodity terms listed under 40 CFR part 180, subpart C. This action establishes a uniform listing of commodity terms.

DATES: This document is effective September 9, 2009. Objections and

requests for hearings must be received on or before November 9, 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–2002–0043. 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 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 Drive, 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: Stephen Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9362; e-mail address: *schaible.stephen@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 manufacturer (NAICS code 311).
- Pesticide manufacturer (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 EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's 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. 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–2002–0043 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 as required by 40 CFR part 178 on or before November 9, 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 this copy, identified by docket ID number EPA–HQ–OPP–2002–0043, 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–400, 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

EPA's Office of Pesticide Programs (OPP) has developed a commodity vocabulary database entitled *Food and Feed Commodity Vocabulary*. The database was developed to consolidate all the major OPP commodity vocabularies into one standardized vocabulary. As a result, all future pesticide tolerances issued under 40 CFR part 180 will use the ''preferred commodity term'' as listed in the aforementioned database. This is the tenth in a series of documents revising the terminology of commodity terms listed under 40 CFR part 180. Nine final rules, revising pesticide tolerance nomenclature, have published in the **Federal Register**: June 19, 2002 (67 FR 41802) (FRL–6835–2); June 21, 2002 (67 FR 42392) (FRL–7180–1); July 1, 2003 (68 FR 39428) (FRL–7308–9) and (68 FR 39435) (FRL–7316–9); December 13, 2006 (71 FR 74802) (FRL–8064–3); September 18, 2007 (72 FR 53134) (FRL–8126–5) (corrected on October 31, 2007 (72 FR 61535) (FRL–8151–4); October 10, 2008 (73 FR 60151) (FRL–8376–1) and June 3, 2009 (74 FR 26527) (FRL–8417–9). EPA issued a proposed rule in the **Federal Register** of May 29, 2009 (74 FR 25689) (FRL–8403–8), announcing proposed terminology changes to 40 CFR part 180, subpart C. No comments were received in response to the May 29, 2009 **Federal Register** proposed rule.

III. Statutory and Exective Order Reviews

This document makes technical amendments to the Code of Federal Regulations which have no substantive impact on the underlying regulations, and it does not otherwise impose or amend any requirements. As such, the Office of Management and Budget (OMB) has determined that a technical amendment is not a ''significant regulatory action'' subject to review by OMB under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, 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). This rule does

not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental organizations. After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action proposes technical amendments to the Code of Federal Regulations which have no substantive impact on the underyling regulations. This technical amendment will not have any negative economic impact on any entities, including small entities. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

IV. 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 that includes a copy of the rule to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. 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 pest, Reporting and recordkeeping requirements.

Dated: August 26, 2009.

Debra Edwards,

Director, 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), 346(a) and 371.

■ 2. Section 180.110 is amended by removing the entry for ''Cabbage, chinese,'' and adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.110 Maneb; tolerances for residues.

(a) * * *

Commodity	Parts per million	Expiration/ Revocation Date
* * * * *		
Cabbage, Chinese, bok choy	10	None
Cabbage, Chinese, napa	10	None
* * * * *		

* * * * *

■ 3. Section 180.111 is amended by removing the entries for ''Alfalfa,'' ''Bean,'' ''Beet (including tops),'' ''Clover,'' ''Corn, forage,'' ''Corn, grain, postharvest,'' ''Onion (including green onion),'' ''Salsify (including tops),'' ''Soybean (dry and succulent),'' ''Squash, summer and winter,'' and ''Turnip (including tops)'' and alphabetically adding the following commodities to the table in paragraph (a)(1) to read as follows:

§ 180.111 Malathion; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
Alfalfa, forage	135
Alfalfa, hay	135
* * * * *	
Bean, dry seed	8
Bean, succulent	8

Commodity	Parts per million
Beet, garden, roots	8
Beet, garden, tops	8
* * * * *	
Clover, forage	135
Clover, hay	135
* * * * *	
Corn, field, forage	8
Corn, field, grain, postharvest	8
* * * * *	
Corn, pop, grain, postharvest	8
Corn, sweet, forage	8
* * * * *	
Onion, bulb	8
Onion, green	8
* * * * *	
Salsify, roots	8
Salsify, tops	8
* * * * *	
Soybean, seed	8
Soybean, vegetable, succulent	8
* * * * *	
Squash, summer	8
Squash, winter	8
* * * * *	
Turnip, greens	8
Turnip, roots	8
* * * * *	

* * * * *

■ 4. Section 180.121 is amended as follows:

■ a. By removing the entry for ''Corn'' from the table in paragraph (a).

■ b. By removing the entry for ''Vetch'' from the table in paragraph (e).

■ c. By adding alphabetically the following entries to the tables in paragraphs (a) and (e) to read as follows:

§ 180.121 Methyl parathion; tolerances for residues.

(a) * * *

Commodity	Parts per million	Expiration/Revocation Date
* * * * *		
Corn, field, grain	1.0	None
Corn, pop, grain	1.0	None
* * * * *		
Corn, sweet, kernel plus cob with husks removed	1.0	None
* * * * *		

* * * * *

(e) * * *

Commodity	Parts per million
* * * * *	
Vetch, forage	1
Vetch, hay	1

■ 5. Section 180.149 is amended by removing the entry for ''Corn, grain, postharvest'' and adding alphabetically the following entries to the table in paragraph (a)(2) to read as follows:

§ 180.149 Mineral oil; tolerances for residues.

(a) * * *

(2) * * *

Commodity	Parts per million
Corn, field, grain, postharvest	200
Corn, pop, grain, postharvest	200
* * * * *	

* * * * *

■ 6. Section 180.176 is amended by removing the entries for ''Barley, milled feed fractions,'' ''Corn, forage,'' ''Corn, stover,'' ''Kidney,'' ''Liver,'' ''Oat, milled feed fractions,'' and ''Wheat, milled byproducts'' and adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.176 Mancozeb; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Barley, bran	20
Barley, flour	20
* * * * *	
Barley, pearled barley	20
* * * * *	
Cattle, kidney	0.5
Cattle, liver	0.5
* * * * *	
Corn, field, forage	5
* * * * *	
Corn, field, stover	5
Corn, pop, stover	5
Corn, sweet, forage	5
* * * * *	
Corn, sweet, stover	5
* * * * *	
Goat, kidney	0.5
Goat, liver	0.5
* * * * *	
Hog, kidney	0.5
Hog, liver	0.5
Horse, kidney	0.5
Horse, liver	0.5
* * * * *	
Oat, flour	20
Oat, groats/rolled oats	20
* * * * *	
Poultry, kidney	0.5
Poultry, liver	0.5
* * * * *	
Sheep, kidney	0.5
Sheep, liver	0.5
* * * * *	
Wheat, bran	20
Wheat, flour	20
Wheat, germ	20
* * * * *	
Wheat, middlings	20
Wheat, shorts	20
* * * * *	

* * * * *

■ 7. Section 180.205 is amended by removing the entry for ''Mint, hay,'' and adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.205 Paraquat; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Peppermint, tops	0.5
* * * * *	
Spearmint, tops	0.5
* * * * *	

* * * * *

■ 8. Section 180.222 is amended by removing the entry for ''Corn, grain'' and adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.222 Prometryn; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Corn, field, grain	0.25
Corn, pop, grain	0.25
* * * * *	

* * * * *

■ 9. Section 180.225 is amended by removing the entry for ''Cabbage, Chinese'' and adding alphabetically the following entries to the table in paragraph (a)(1) to read as follows:

§ 180.225 Phosphine; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
* * * * *	
Cabbage, Chinese, bok choy	0.01
Cabbage, Chinese, napa	0.01
* * * * *	

* * * * *

■ 10. Section 180.235 is amended by revising paragraph (a)(2) to read as follows:

§ 180.235 Dichlorvos; tolerances for residues.

(a) *General.* * * *

(2) The tolerance of 0.1 part per million prescribed by 21 CFR 556.180 for negligible residues of 2,2-dichlorovinyl dimethyl phosphate in hog, fat; hog, meat; hog, meat byproducts; and hog, skin covers both its use as an anthelmintic in swine feed and as an insecticide applied directly to swine.

* * * * *

■ 11. Section 180.253 is amended by removing the entries for ''Alfalfa,'' ''Cabbage, chinese,'' ''Corn forage,'' ''Corn, grain (inc pop),'' ''Corn, stover,'' and ''Mint, hay,'' and adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.253 Methomyl; tolerances for residues.

(a) * * *

Commodity	Parts per million
Alfalfa, forage	10
Alfalfa, hay	10
* * * * *	
Cabbage, Chinese, bok choy	5
Cabbage, Chinese, napa	5
* * * * *	
Corn, field, forage	10
Corn, field, grain	0.1
Corn, field, stover	10
Corn, pop, grain	0.1
Corn, pop, stover	10
* * * * *	
Corn, sweet, forage	10
Corn, sweet, stover	10
* * * * *	
Peppermint, tops	2
* * * * *	
Spearmint, tops	2
* * * * *	

* * * * *

■ 12. Section 180.254 is amended by removing the entries for ''Corn, forage (of which no more than 5 ppm are carbamates),'' ''Corn, grain (including popcorn) (of which no more than 0.1 ppm is carbamates), and ''Corn, stover (of which no more than 5 ppm are carbamates)'' and adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.254 Carbofuran; tolerances for residues.

(a) * * *

Commodity	Parts per million	Expiration/Revocation date
* * * * *		
Corn, field, forage (of which no more than 5 ppm are carbamates)	25	12/31/09
Corn, field, grain (of which no more than 0.1 ppm is carbamates)	0.2	12/31/09
Corn, field, stover (of which no more than 5 ppm are carbamates)	25	12/31/09
Corn, pop, grain (of which no more than 0.1 ppm is carbamates)	0.2	12/31/09
Corn, pop, stover (of which no more than 5 ppm are carbamates)	25	12/31/09
Corn, sweet, forage (of which no more than 5 ppm are carbamates)	25	12/31/09
* * * * *		
Corn, sweet, stover (of which no more than 5 ppm is carbamates)	25	12/31/09
* * * * *		

* * * * *

■ 13. Section 180.261 is amended by removing the entry for ''Alfalfa'' and adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.261 *N*-(Mercaptomethyl)phthalimide *S*-(*O*,*O*-dimethylphosphorodithioate) and its oxygen analog; tolerances for residues.

(a) * * *

Commodity	Parts per million
Alfalfa, forage	40
Alfalfa, hay	40
* * * * *	

* * * * *

■ 14. Section 180.262 is amended by removing the entries for ''Corn, forage,'' ''Corn, grain,'' and ''Corn, stover,'' and adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.262 Ethoprop; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Corn, field, forage	0.02
Corn, field, grain	0.02
Corn, field, stover	0.02
Corn, pop, grain	0.02
Corn, pop, stover	0.02
Corn, sweet, forage	0.02
* * * * *	
Corn, sweet, stover	0.02

* * * * *

■ 15. Section 180.275 is amended by removing the entry for ''Mint hay'' and adding alphabetically the following entries to the table in paragraph (c) to read as follows:

§ 180.275 Chlorothalonil; tolerances for residues.

* * * * *

(c) * * *

Commodity	Parts per million
* * * * *	
Peppermint, tops	2
* * * * *	
Spearmint, tops	2

* * * * *

■ 16. Section 180.284 is amended by removing the entry for ''Grass

(rangeland)'' and adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.284 Zinc phosphide; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Grass, rangeland, forage	0.1
Grass, rangeland, hay	0.1
* * * * *	

* * * * *

■ 17. Section 180.288 is amended by removing the entries for ''Corn, grain'' and ''Corn, stover'' and adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.288 2-(Thiocyanomethylthio)benzothiazole; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Corn, field, grain	0.1
Corn, field, stover	0.1
Corn, pop, grain	0.1
Corn, pop, stover	0.1
* * * * *	

■ 18. Section 180.331 is amended by removing the entry for ''Clover,'' and adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.331 4-(2,4-Dichlorophenoxy)butyric acid; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Clover, forage	0.2
Clover, hay	0.2
* * * * *	

■ 19. Section 180.377 is amended by removing the entry for ''Wheat, milled byproducts'' and adding alphabetically the following entries to the table in paragraph (b) to read as follows:

§ 180.377 Diflubenzuron; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
* * * * *		
Wheat, bran	0.10	12/31/08
Wheat, flour	0.10	12/31/08
Wheat, germ	0.10	12/31/08
* * * * *		
Wheat, middlings	0.10	12/31/08
Wheat, shorts	0.10	12/31/08

■ 20. Section 180.379 is amended by removing the entries for ''Corn, forage,'' ''Corn, grain,'' and ''Corn, stover'' and adding alphabetically the following entries to the table in paragraph (a)(1) to read as follows:

§ 180.379 Cyano(3-phenoxyphenyl)methyl-4-chloro-α- (1-methylethyl) benzeneacetate; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
* * * * *	
Corn, field, forage	50.0
Corn, field, grain	0.02
Corn, field, stover	50.0
Corn, pop, grain	0.02
Corn, pop, stover	50.0
Corn, sweet, forage	50.0
* * * * *	
Corn, sweet, stover	50.0
* * * * *	

* * * * *

■ 21. Section 180.408 is amended as follows:

■ a. By removing the entries for ''Potato, processed (including potato, chips),'' and ''Tomato, processed'' from the table in paragraph (a).

■ b. By removing the entries for ''Barley, milling fractions'' and ''Oat milling fractions,'' and ''Wheat, milling fractions'' from the table in paragraph (d).

■ c. By adding alphabetically the following entries to the tables in paragraphs (a) and (d) to read as follows:

§ 180.408 Metalaxyl; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Potato, chips	4.0
Potato, granules, flakes	4.0
* * * * *	
Potato, wet peel	4.0
* * * * *	
Tomato, paste	3.0
Tomato, puree	3.0
* * * * *	

* * * * *

(d) * * *

Commodity	Parts per million
Barley, bran	1.0
Barley, flour	1.0
* * * * *	
Barley, pearled barley	1.0
* * * * *	
Oat, flour	1.0
* * * * *	
Oat, groats, rolled oats	1.0
* * * * *	
Wheat, bran	1.0
* * * * *	
Wheat, flour	1.0
* * * * *	
Wheat, germ	1.0
* * * * *	
Wheat, middlings	1.0
Wheat, shorts	1.0
* * * * *	

* * * * *

■ 22. Section 180.411 is amended by removing the entry for ''Cotton, oil'' and adding alphabetically the following entry to the table in paragraph (a) to read as follows:

§ 180.411 Fluazifop-P-butyl; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
* * * * *	
Cotton, refined oil	0.2
* * * * *	

■ 23. Section 180.419 is amended by revising the table in paragraph (a)(2) to read as follows:

§ 180.419 Chlorpyrifos-methyl; tolerances for residues.

(a) *General.* * * *

(2) * * *

Commodity	Parts per million
Barley, bran	90
Barley, pearled barley	90
Rice, bran	30
Rice, hulls	30
Rice, polished rice	30
Sorghum, grain, bran	90
Wheat, bran	30

Commodity	Parts per million
Wheat, germ	30
Wheat, middlings	30
Wheat, shorts	30

* * * * *

■ 24. Section 180.431 is amended by removing the entries for ''Barley, milled fractions (except flour),'' ''Grass, forage and hay,'' ''Mint, hay,'' and ''Wheat, milled fractions (except flour),'' and adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.431 Clopyralid; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Barley, bran	12
* * * * *	
Barley, pearled barley	12
* * * * *	
Grass, forage	500.0
Grass, hay	500.0
* * * * *	
Peppermint, tops	3.0
* * * * *	
Spearmint, tops	3.0
* * * * *	
Wheat, bran	12
* * * * *	
Wheat, germ	12
* * * * *	
Wheat, middling	12
Wheat, shorts	12
* * * * *	

* * * * *

■ 25. Section 180.435 is amended by removing the entry for ''Tomato, concentrated products'' and adding alphabetically the following entries to the table in paragraph (a)(1) to read as follows:

§ 180.435 Deltamethrin; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
* * * * *	
Tomato, paste	1.0
Tomato, puree	1.0
* * * * *	

* * * * *

■ 26. Section 180.436 is amended by removing the entry for ''Tomato, pomace'' and adding alphabetically the following entries to the table in paragraph (a)(1) to read as follows:

§ 180.436 Cyfluthrin and the isomer beta-cyfluthrin; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
* * * * *	
Tomato, dry pomace	5.0
Tomato, wet pomace	5.0
* * * * *	

* * * * *

■ 27. Section 180.440 is amended by removing the entries for ''Corn, field, fodder and forage, pop and sweet'' and ''Corn, field, grain and pop'' and adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.440 Tefluthrin; tolerances for residues.

(a) * * *

Commodity	Parts per million
Corn, field, forage	0.06
Corn, field, grain	0.06
Corn, field, stover	0.06
Corn, pop, grain	0.06
Corn, pop, stover	0.06
Corn, sweet, forage	0.06
* * * * *	
Corn, sweet, stover	0.06
* * * * *	

* * * * *

■ 28. Section 180.442 is amended by removing the entries for ''Corn, forage,'' ''Corn, grain (field, seed, and pop),'' and ''Corn, stover'' and adding alphabetically the following entries to the table in paragraph (a)(1) to read as follows:

§ 180.442 Bifenthrin; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
* * * * *	
Corn, field, forage	3.0
Corn, field, grain	0.05
Corn, field, stover	5.0
Corn, pop, grain	0.05
Corn, pop, stover	5.0
Corn, sweet, forage	3.0
* * * * *	
Corn, sweet, stover	5.0
* * * * *	

* * * * *

■ 29. Section 180.443 is amended by removing the entry for ''Grape pomace (wet and dry)'' and adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.443 Myclobutanil; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Grape, dried pomace	10.0
* * * * *	
Grape, wet pomace	10.0
* * * * *	

* * * * *

■ 30. Section 180.446 is amended by removing the entry for ''Apple, pomace'' and adding alphabetically the following entries to the table in paragraph (a)(1) to read as follows:

§ 180.446 Clofentezine; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
* * * * *	
Apple, dry pomace	3.0
Apple, wet pomace	3.0
* * * * *	

* * * * *

■ 31. Section 180.452 is amended by removing the entries for ''Corn, forage,'' ''Corn, grain,'' and ''Corn, stover'' and adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.452 Primisulfuron-methyl; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Corn, field, forage	0.10
Corn, field, grain	0.02
Corn, field, stover	0.10
Corn, pop, grain	0.02
Corn, pop, stover	0.10
Corn, sweet, forage	0.10
* * * * *	
Corn, sweet, stover	0.10
* * * * *	

* * * * *

■ 32. Section 180.454 is amended by removing the entries for ''Corn, grain'' and ''Corn, stover'' and adding alphabetically the following entries to the table to read as follows:

§ 180.454 Nicosulfuron, [3-pyridinecarboxamide, 2-((((4,6-dimethoxypyrimidin-2-yl)aminocarbonyl)aminosulfonyl))-N,N-dimethyl]; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Corn, field, grain	0.1
Corn, field, stover	0.1
* * * * *	
Corn, pop, grain	0.1
Corn, pop, stover	0.1
* * * * *	

* * * * *

■ 33. Section 180.462 is amended by removing the entries for ''Corn, grain'' and ''Corn, stover'' and adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.462 Pyridate; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Corn, field, grain	0.03
Corn, field, stover	0.03
Corn, pop, grain	0.03
Corn, pop, stover	0.03
* * * * *	

* * * * *

■ 34. Section 180.472 is amended by removing the entries for ''Grape, pomace (wet or dried),'' ''Lettuce, head and leaf,'' and ''Tomato, pomace (wet or dried)'' and adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.472 Imidacloprid; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Grape, dried pomace	5.0
* * * * *	
Grape, wet pomace	5.0
* * * * *	
Lettuce, head	3.5
Lettuce, leaf	3.5
* * * * *	
Tomato, dry pomace	4.0
* * * * *	
Tomato, wet pomace	4.0
* * * * *	

* * * * *

■ 35. Section 180.476 is amended by removing the entries for ''Apple, pomace'' and ''Grape pomace'' and adding alphabetically the following entries to the table in paragraph (a)(1) to read as follows:

§ 180.476 Triflumizole; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
* * * * *	
Apple, dry pomace	2.0
Apple, wet pomace	2.0
* * * * *	
Grape, dried pomace	15.0
* * * * *	
Grape, wet pomace	15.0
* * * * *	

* * * * *

■ 36. Section 180.482 is amended as follows:

■ a. By removing the entries for ''Apple, pomace'' and ''Tree nut crop group including pistachio'' from the table in paragraph (a)(1).

■ b. By removing the entries for ''Fat of cattle, goat, hog, horse, and sheep,'' ''Meat byproducts of cattle, goat, hog, horse and sheep,'' and ''Meat of cattle, goat, hog, horse and sheep'' from the table in paragraph (a)(2).

■ c. By adding alphabetically the following entries to the tables in paragraphs (a)(1) and (a)(2) to read as follows:

§ 180.482 Tebufenozide; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
* * * * *	
Apple, dry pomace	3.0
Apple, wet pomace	3.0
* * * * *	
Nut, tree, group 14	0.1
* * * * *	
Pistachio	0.1
* * * * *	

(2) * * *

Commodity	Parts per million
Cattle, fat	0.1
Cattle, meat	0.08
Cattle, meat byproducts	0.08
Goat, fat	0.1
Goat, meat	0.08
Goat, meat byproducts	0.08
Hog, fat	0.1
Hog, meat	0.08
Hog, meat byproducts	0.08
Horse, fat	0.1
Horse, meat	0.08
Horse, meat byproducts	0.08
* * * * *	
Sheep, fat	0.1
Sheep, meat	0.08
Sheep, meat byproducts	0.08

* * * * *

■ 37. Section 180.495 is amended by removing the entry for ''Apple pomace'' and by adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.495 Spinosad; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Apple, dry pomace	0.5
Apple, wet pomace	0.5
* * * * *	

* * * * *

■ 38. Section 180.515 is amended by removing the entries for ''Fat (cattle, goat, horse, and sheep),'' ''Meat, (cattle, goat, horse, and sheep),'' and ''Meat, byproducts, cattle, goat, horse, and sheep'' and by adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.515 Carfentrazone-ethyl; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Cattle, fat	0.10
Cattle, meat	0.10
Cattle, meat byproducts	0.10
* * * * *	
Goat, fat	0.10
Goat, meat	0.10
Goat, meat byproducts	0.10
* * * * *	
Horse, fat	0.10
Horse, meat	0.10
Horse, meat byproducts	0.10
* * * * *	
Sheep, fat	0.10
Sheep, meat	0.10
Sheep, meat byproducts	0.10

Commodity	Parts per million
* * * * *	

* * * * *

■ 39. Section 180.517 is amended by removing the entries for ''Fat of cattle, goat, horse and sheep,'' ''Liver of cattle, goat, horse and sheep,'' ''Meat Byproducts, except liver of cattle, goat, horse, and sheep,'' and ''Meat of cattle, goat, horse and sheep'' and adding alphabetically the following entries to the table in paragraph (a) to read as follows:

§ 180.517 Fipronil; tolerances for residues.

(a) * * *

Commodity	Parts per million
Cattle, fat	0.40
Cattle, liver	0.10
Cattle, meat	0.04
Cattle, meat byproducts, except liver	0.04
* * * * *	
Goat, fat	0.40
Goat, liver	0.10
Goat, meat	0.04
Goat, meat byproducts, except liver	0.04
* * * * *	
Horse, fat	0.40
Horse, liver	0.10
Horse, meat	0.04
Horse, meat byproducts, except liver	0.04
* * * * *	
Sheep, fat	0.40
Sheep, liver	0.10
Sheep, meat	0.04
Sheep, meat byproducts, except liver	0.04

* * * * *

■ 40. Section 180.554 is amended by removing the entry for ''Apple pomace'' and by adding alphabetically the following entries to the table in paragraph (a)(1) to read as follows:

§ 180.554 Kresoxim-methyl; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
Apple, dry pomace	1.0
Apple, wet pomace	1.0
* * * * *	

* * * * *

■ 41. Section 180.615 is amended by removing the entry for ''Wheat, milled byproducts'' and adding alphabetically the following entries to the table in paragraph (d) to read as follows:

§ 180.615 Amicarbazone; tolerances for residues.

* * * * *

(d) * * *

Commodity	Parts per million
* * * * *	
Wheat, bran	0.15
Wheat, flour	0.15
* * * * *	
Wheat, germ	0.15
* * * * *	
Wheat, middlings,	0.15
Wheat, shorts	0.15
* * * * *	

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0876; FRL–8431–2]

Pendimethalin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for combined residues of the herbicide pendimethalin including its metabolites and degradates in or on olive at 0.1 parts per million (ppm). The Interregional Research Project Number 4 (IR–4) requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective September 9, 2009. Objections and requests for hearings must be received on or before November 9, 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–2008–0876. 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: Sidney Jackson, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7610; e-mail address: *jackson.sidney@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 those engaged in the following activities:

- 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 to provide 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 EPA's tolerance regulations at 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 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. 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–2008–0876 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 as required by 40 CFR part 178 on or before November 9, 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 this copy, identified by docket ID number EPA–HQ–OPP–2008–0876, 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 22202. 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. Petition for Tolerance

In the **Federal Register** of April 13, 2009 (74 FR 16866) (FRL–8396–6), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 8E7404) by IR–4, 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR 180.361 be amended by establishing tolerances for combined residues of the herbicide pendimethalin, *N*-(ethylpropyl)-3,4-di methyl-2,6-dinitrobenzenamine and its metabolite, 4-[(1-ethylpropyl)amino]-2-methyl-3, 5-dinitrobenzyl alcohol in or on olive at 0.1 parts per million (ppm). That notice referenced a summary of the petition prepared by BASF Corporation, the registrant, on behalf of IR–4 and is available to the public in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

III. 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 section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, 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 for the petitioned-for tolerances for combined residues of pendimethalin including its metabolites and degradates on olive at 0.1 ppm. EPA's assessment of exposures and risks associated with establishing tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies 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.

Pendimethalin has moderate oral and eye toxicity and low dermal and inhalation toxicity. Pendimethalin is not a dermal sensitizer. The target organ for pendimethalin in chronic and subchronic rat and mouse studies is the thyroid. Effects seen in these studies include alterations in thyroid hormones, increased thyroid weight, and microscopic thyroid lesions (including increased thyroid follicular cell height, follicular cell hyperplasia, as well as follicular cell adenomas).

Prenatal developmental toxicity studies in rats and rabbits show no indication of qualitative or quantitative susceptibility following prenatal and postnatal exposure in 2-generation reproduction studies in rats. A developmental thyroid study has been requested to provide additional information to evaluate thyroid toxicity in the developing fetus following prenatal and postnatal exposure.

In a combined chronic/carcinogenicity study in rats, the lowest-observed-adverse-effect level (LOAEL) of 250 milligrams/kilogram/day (mg/kg/day) is based on decreased survival, body weight gain and food consumption, increased gamma glutamyl transferase and cholesterol, increase in absolute and/or relative liver weight, generalized icterus, dark adipose tissue in females, diffusely dark thyroids and follicular cell hyperplasia of the thyroid. Thyroid tumors were observed in both male and female rats. In the carcinogenicity study in mice, the LOAELs of 622.1 and 806.99 mg/kg/day for males and females, respectivley, are based on increased mortality in females, decreased body weight in females, increased absolute thyroid, liver and gall bladder weights and/or relative body and brain weight ratios in males and females as well as amyloidosis in males. There were no tumors observed in mice.

Pendimethalin is classified as a ''Group C'', possible human carcinogen, based on a statistically significant increased trend and pair-wise comparison between the high dose group and controls for thyroid follicular cell adenomas in male and female rats. A non-quantitative approach (i.e., non-linear, RfD approach) was employed by the Agency since mode of action studies are available that demonstrate that the thyroid tumors are due to a thyroid-pituitary imbalance. Pendimethalin was shown to be non-mutagenic in mammalian somatic cells and germ cells.

Based on concern for the hormonal changes (alterations in thyroid weights and histopathological lesions) seen in several studies following oral administration of pendimethalin for 14, 28, and 92 days as well as following chronic exposure and the likelihood that pendimethalin may cause disruption in the thyroid, the Agency

required a developmental thyroid study to be submitted to further characterize these effects.

There is no evidence of neurotoxicity or potential immunotoxicity for pendimethalin in the toxicology database. An immunotoxicity and acute and subchronic neurotoxicity studies are required as part of the revised 40 CFR part 158 toxicology data requirements for pendimethalin.

Specific information on the studies received and the nature of the adverse effects caused by pendimethalin as well as the no-observed-adverse-effect-level (NOAEL) and the LOAEL from the toxicity studies can be found at *http://www.regulations.gov* in document ''Pendimethalin: Human Health Risk and Exposure Assessment for Proposed Section 3 Registration for Use on Olive,'' dated May 28, 2009, at page 10 in docket ID number EPA–HQ–OPP–2008–0876.

B. 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-, intermediate-, 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 document ''Pendimethalin: Human Health Risk and Exposure Assessment for Proposed Section 3 Registration for Use on Olive,'' dated May 28, 2009, at page 10 in docket ID number EPA–HQ–OPP–2008-0876.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to pendimethalin, EPA considered exposure under the petitioned-for tolerances as well as all existing pendimethalin tolerances in 40 CFR 180.361. EPA assessed dietary exposures from pendimethalin 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.

No such effects were identified in the toxicological studies for pendimethalin; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used Dietary Exposure Evaluation Model (DEEM-FCID, version 2.00), which uses food consumption data 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, the chronic dietary exposure analysis was based on the following assumptions:

a. All currently registered raw agricultural commodities (RACs) and all proposed uses on RACs have tolerance level residues of pendimethalin; and

b. All crops for which tolerances exist or are proposed were treated, i.e., 100% crop treated (CT).

In estimating residues in processed commodities EPA used empirical processing factors obtained from the processing studies, where available; maximum theoretical concentration factors of 8.0 for the processed commodities of wheat bran and wheat germ and 1.4 for wheat flour; and DEEM 7.81 default-processing factors were used for the remaining processed commodities.

iii. *Cancer*. As explained in Unit II.A., EPA has concluded that the chronic risk assessment will be protective of the precursor events that have led to cancer effects in animal studies. Therefore, a separate quantitative dietary exposure assessment to evaluate cancer risk was not conducted.

iv. *Anticipated residue and percent crop treated*. The Agency did not use anticipated residue or percent crop treated (PCT) in the dietary assessment for pendimethalin. The assumption of 100% CT and tolerance level residues was made for all registered and proposed food commodity uses of pendimethalin.

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 estimated drinking water concentrations (EDWCs) of pendimethalin were estimated. Modeled estimates of drinking water were entered into the dietary exposure model. For chronic exposures for non-cancer assessments, the concentration values of pendimethalin are estimated to be 6.0 ppb for surface water and 0.036 ppb for ground 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 residential non-dietary sites: Recreational and residential turf (including home lawns, golf courses, athletic fields, etc.) and ornamentals. EPA assessed residential exposure based on applications to residential turf (i.e., home lawns), since this use is expected to result in the greatest residential exposure.

There is a potential for short-term exposure of homeowners applying products containing pendimethalin on home lawns. There is also a potential for short-term post-application exposure of adults and children entering lawn and

recreation areas previously treated with pendimethalin. Exposures from treated recreational sites are expected to be similar to, or 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 turfgrass.

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 EPA Health Effects Division's (HED's) Science Advisory Council for Exposure (ExpoSAC).

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 EPA's Web site at *http://www.epa.gov/pesticides/cumulative*.

D. 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 safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity*. The Agency concluded there is potential for prenatal and/or postnatal toxicity (thyroid) in developing offspring resulting from exposure to pendimethalin. There was no indication of prenatal and/or postnatal 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 for thyroid toxicity could not be determined in the developmental studies, the Agency has requested developmental thyroid toxicity data, in order to determine potential thyroid toxicity following prenatal and/or postnatal exposure to pendimethalin.

3. *Conclusion*. Based on the following considerations, EPA has determined that the FQPA safety factor should be retained for the subchronic and chronic thyroid endpoints:

i. The toxicity database for pendimethalin is not complete. 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. This study has not yet been submitted.

In accordance with 40 CFR part 158 toxicology data requirements, acute and subchronic neurotoxicity studies and an immunotoxicity study are required for pendimethalin. However, since there was no evidence of neurotoxic clinical signs, changes in brain weight, or histopathology of the nervous system in any study with pendimethalin, the Agency determined that an additional factor for database uncertainties is not needed to account for lack of these data. Additionally, there is no need for a developmental neurotoxicity study. In the absence of specific immunotoxicity studies, EPA has evaluated the available pendimethalin toxicity data to determine whether an additional database uncertainty factor is needed to account for potential immunotoxicity. There are no indications in the available studies that organs associated with immune function, such as the thymus and spleen, are affected by pendimethalin, and pendimethalin does not belong to a class of chemicals (e.g., the organotins, heavy metals, or halogenated aromatic hydrocarbons) that would be expected to be immunotoxic.

ii. There was no indication of pendimethalin neurotoxicity in subchronic or chronic toxicity studies and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There was no indication of prenatal and/or postnatal qualitative or quantitative increased susceptibility in the developmental studies in rats and rabbits or the 2-generation reproduction studies in rats. However, the developmental studies in rats and rabbits were not adequate to determine the potential for thyroid toxicity during development. Consequently, there is concern for potential increased sensitivity or susceptibility in offspring regarding thyroid effects, and, as discussed above, a developmental thyroid toxicity study has been required.

iv. The available studies do not indicate potential immunotoxicity and pendimethalin does not belong to the class of compounds (e.g., the organotins, heavy metals, or halogenated aromatic hydrocarbons) that would be expected to be toxic to the immune system. Based on the available data the immunotoxicity is not expected to provide a Point of Departure (POD) lower than that currently used for overall risk assessments. Therefore, at this time a database uncertainty factor is not needed for the lack of these studies.

v. There are no residual uncertainties identified in the exposure databases. The chronic food exposure assessments are considered to be highly conservative, as they assume that all crops registered and proposed have residues at tolerance-level. The drinking water estimates were derived from conservative screening models. The residential exposure assessment utilizes reasonable high-end variables set out in EPA's Residential Exposure SOPs (Standard Operating Procedures). The aggregate assessment is based upon reasonable high-end residential exposure assumptions, and is also not likely to under estimate exposure to any subpopulation, including those comprised of infants and children.

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 for all subchronic and chronic exposures whose endpoint is based on thyroid effects. Pendimethalin has not been shown to cause acute effects. EPA has also determined that the traditional 10X uncertainty factor to account for interspecies variation may be reduced to 3X for these subchronic and chronic exposures, since it has been established that rats are more susceptible to thyroid effects than humans. These factors, together with the traditional 10X uncertainty factor to account for intraspecies variation, result in a total uncertainty factor of 300X (10X, 3X and 10X).

E. 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-, intermediate-, 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. No adverse effect resulting from a single-oral exposure was identified and no acute dietary endpoint was selected. Therefore, pendimethalin is not expected to pose an acute risk.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic 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 explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of pendimethalin 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).

Pendimethalin is currently registered for use(s) 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 result in aggregate MOEs of 650 for adult males and 580 for adult females. The aggregate exposure estimate for children results in a total MOE of 350 at an application rate (to residential turf) of 2 lbs active ingredient/Acre (ai/A), and a total MOE of 340 for an application rate of 3 lbs ai/A. As the level of concern is for MOEs that are lower than 300, these MOEs are not of concern.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account intermediate-term residential 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*. As explained in Unit II.A., the chronic risk assessment is considered to be protective of any 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.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology, liquid chromatography/mass spectrometry (LC/MS/MS), is available to enforce the tolerance expression. 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 established or proposed Codex or Canadian Maximum Residue Levels (MRLs) for pendimethalin. Mexico has established MRLs (expressed as pendimethalin per se) for several crops but none for olives.

V. Conclusion

Therefore, a tolerance is established for combined residues of pendimethalin, [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine], including its metabolites and degradates, in or on olive at 0.1 ppm. Compliance with the tolerance levels specified is to be determined by measuring only pendimethalin [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine] and its metabolite 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol expressed as the stoichiometric equivalent of pendimethalin, in or on the commodity.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances 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 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 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. 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).

VII. 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: September 1, 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 the introductory text to paragraph (a) and adding alphabetically an entry for ''olive'' to the table in paragraph (a) to read as follows:

§ 180.361 Pendimethalin; tolerance for residues.

(a) *General.* Tolerances are established for the combined residues of pendimethalin, [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine], including its metabolites and degradates. Compliance with the tolerance levels specified is to be determined by measuring only pendimethalin, [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine] and its metabolite 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol expressed as the stoichiometric equivalent of pendimethalin, in or on the following raw agricultural commodities.

Commodity	Parts per million
* * * * *	
Olive	0.1
* * * * *	

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[FR Doc. E9–21719 Filed 9–8–09; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[MB Docket No. 07–172; FCC 09–59].

Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection requirements associated with 47 CFR 74.1284, FCC Form 303–S and FCC Form 345. Therefore, this rule and forms will take effect on October 1, 2009. On September 1, 2009, the Commission published the summary document of the Report and Order, In the Matter of the Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations, MB Docket No. 07–172, FCC 09–59, at 74 FR 45126. The Ordering Clause of the Report and Order stated that the Commission would publish a notice in the Federal Register announcing when OMB approval for Section 74.1284 and information collection requirements (revisions to FCC Form 303–S and 345) have been received and when the revised rule and requirements will take effect. This notice is consistent with the statement in the Report and Order.

FCC Form 349 has not received OMB approval to date. The Commission will publish a notice in the Federal Register announcing when OMB approval has been received.

DATES: The amendments to 47 CFR 74.1284, published September 1, 2009 (74 FR 45130) are effective on October 1, 2009.

FOR FURTHER INFORMATION CONTACT: Cathy Williams, cathy.williams@fcc.gov or on (202) 418–2918.

SUPPLEMENTARY INFORMATION: This document announces that, on September 1, 2009, OMB approved, for a period of three years, the information collection requirement(s) contained in Section 74.1284 of the rules and revisions to FCC Forms 303–S and 345. The Commission publishes this notice to announce the effective date of this rule and requirements. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW, Washington, DC 20554. Please include OMB Control Numbers, 3060–0075 (Form 345), 3060–0110 (Form 303–S) and 3060–0250 (Section 74.1284) in your correspondence. The Commission will also accept your comments via the Internet if you send them to PRA@fcc.gov.

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

SYNOPSIS

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received OMB approval on September 1, 2009, for the information collection requirement(s) contained in the Commission's rules at 47 CFR 74.1284 and revisions to FCC Forms 303–S and 345.

Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid OMB Control Number.

The OMB Control Numbers are 3060–0075, 3060–0110 and 3060–0250 and the total annual reporting burdens for respondents for these information collections are as follows:

OMB Control Number: 3060–0075.

OMB Approval Date: September 1, 2009.

Expiration Date: August 31, 2012.

Title: Application for Transfer of Control of a Corporate Licensee or Permittee or Assignment of License or Permit for an FM or TV Translator Station or a Low Power Television Station, FCC Form 345.

Form Number: FCC Form 345.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for–profit entities; not–for–profit institutions; State, local or tribal government.

Number of Respondents and Responses: 1,700 respondents; 2,700 responses.

Estimated Time per Response: 0.084 –1.25 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Total Annual Burden: 2,667 hours.

Total Annual Costs: $2,678,025.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 154(i) and 310 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: On June 29, 2009, the Commission adopted a Report and Order, Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations, MB Docket No. 07–172, FCC 09–59. In the Report and Order, the Commission adopted changes to the FM translator rules that would allow AM stations to use authorized FM translator stations to rebroadcast the AM signal locally, retransmitting their AM programming as a ''fill–in'' service. The adopted cross–service translating rules limit FM translators to providing ''fill–in'' service only, specifically within the AM primary station's authorized service area. In addition, the Commission limited the cross–service rule changes to ''currently authorized FM translators,'' that is, those translators with licenses or permit in effect as of May 1, 2009.

Consistent with actions taken by the Commission in the Report and Order, the following changes are made to Form 345: Section III of Form 345 includes a new certification concerning compliance with the AM station ''fill–in'' service requirements. Specifically, in the AM service, applicants certify that the coverage contour of the FM translator station is contained within the lesser of: (a) The 2 mV/m daytime contour of the AM primary station being rebroadcast, or (b) a 25–mile radius centered at the AM station's transmitter site. The instructions for Section III have been revised to assist applicants with completing the new question.

Filing of the FCC Form 345 is required when applying for authority for the assignment of license or permit, or for consent to transfer of control of a corporate licensee or permittee for an FM or TV translator station, or low power TV station.

OMB Control Number: 3060–0110.

OMB Approval Date: September 1, 2009.

Expiration Date: August 31, 2012.

Title: Application for Renewal of Broadcast Station License, FCC Form 303–S.

Form Number: FCC Form 303–S.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for–profit entities; not–for–profit institutions.

Number of Respondents and Responses: 3,884 respondents; 3,884 responses.

Estimated Time per Response: 1 – 11.83 hours.

Frequency of Response: Every eight year reporting requirement; Third party disclosure requirement.

Total Annual Burden: 7,727 hours.

Total Annual Costs: $2,148,549.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in 154(i), 303, 307 and 308 of the Communications Act of 1934, as amended, and Section 204 of the Telecommunications Act of 1996.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: On June 29, 2009, the Commission adopted a Report and Order, Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations, MB Docket No. 07–172, FCC 09–59. In the Report and Order, the Commission adopted changes to the FM translator rules that would allow AM stations to use authorized FM translator stations to rebroadcast the AM signal locally, retransmitting their AM programming as a ''fill–in'' service. The adopted cross–service translating rules limit FM translators to providing ''fill–in'' service only, specifically within the AM primary station's authorized service area. In addition, the Commission limited the cross–service rule changes to ''currently authorized FM translators,'' that is, those translators with licenses or permit in effect as of May 1, 2009.

Consistent with actions taken by the Commission in the Report and Order, the following changes are made to Form 303–S: Section V of Form 303–S, to be completed by FM and TV Translator and Low Power TV licensees only, includes a new certification concerning compliance with the AM station ''fill–in'' service requirements. Specifically, in the AM service, applicants certify that the coverage contour of the FM translator station is contained within the lesser of: (a) The 2 mV/m daytime contour of the AM primary station being rebroadcast, or (b) a 25–mile radius centered at the AM station's transmitter site. The instructions for Section V have been revised to assist applicants with completing the new question.

FCC Form 303–S is used in applying for renewal of license for a commercial or noncommercial AM, FM or TV broadcast station and FM translator, TV translator or Low Power TV, and Low Power FM broadcast stations. It can also be used in seeking the joint renewal of licenses for an FM or TV translator station and its co–owned primary FM, AM, TV, or LPTV station.

OMB Control Number: 3060–0250.

OMB Approval Date: September 1, 2009.

Expiration Date: August 31, 2012.

Title: Sections 73.1207, 74.784 and 74.1284, Rebroadcasts.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for–profit entities; Not–for–profit institutions; State, local or tribal government.

Number of Respondents and Responses: 6,462 respondents; 11,012 responses.

Estimated Time per Response: 0.50 hours.

Frequency of Response: Recordkeeping requirement; on occasion reporting requirement; semi–annual reporting requirement; third party disclosure requirement.

Total Annual Burden: 5,506 hours.

Total Annual Costs: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 154(i) and

325(a) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: On June 29, 2009, the Commission adopted a Report and Order, Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations, MB Docket No. 07–172, FCC 09–59. In the Report and Order, the Commission adopted several rule changes that would allow AM stations to use FM translator stations to rebroadcast the AM signal. Therefore, 47 CFR 74.1284 is one of the rules that was changed as a result of the Commission adopting FCC 09–59. 47 CFR 74.1284 requires that the licensee of an FM translator station obtain prior consent to rebroadcast programs of any broadcast station or other FM translator. The licensee of the FM translator station must notify the Commission of the call letters of each station rebroadcast and must certify that written consent has been received from the licensee of that station.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E9–21518 Filed 9–8–09; 8:45 am]

BILLING CODE 6712–01–S

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–1999–6439, Notice No. 21]

49 CFR Part 222

Excess Risk Estimate for Highway-Rail Grade Crossings Along the Florida East Coast Railway Line

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule amends the regulations regarding the use of locomotive horns at public highway-rail grade crossings by establishing an excess risk estimate of 90.9 percent for public highway-rail grade crossings along the Florida East Coast Railway Company (FEC) line. When this final rule is effective, public authorities will be permitted to establish New Quiet Zones along the FEC line, in accordance with the existing regulations, through application of the excess risk estimate provided herein.

DATES: The effective date is November 9, 2009. However, public authorities may begin to provide quiet zone-related documentation to FRA and other parties 30 days after September 9, 2009.

FOR FURTHER INFORMATION CONTACT: Ronald Ries, Office of Safety, Mail Stop 25, FRA, 1200 New Jersey Avenue, SE., Washington, DC 20590 (telephone: (202) 493–6299); or Kathryn Shelton, Office of Chief Counsel, Mail Stop 10, FRA, 1200 New Jersey Avenue, SE., Washington, DC 20590 (telephone: (202) 493–6038).

SUPPLEMENTARY INFORMATION:

I. Background

On July 26, 1991, FRA issued Emergency Order No. 15 (EO 15), which requires FEC trains to sound train borne audible warning devices when approaching public highway-rail grade crossings. This Emergency Order preempts a Florida statute that became effective on July 1, 1984. The Florida statute authorized counties and municipalities to ban the use of train horns and whistles between the hours of 10 p.m. and 6 a.m. by FEC trains approaching public highway-rail grade crossings that were equipped with flashing lights, bells, crossing gates, and highway signs indicating train horns and whistles would not be sounded at night.

Amendments to EO 15, issued on August 31, 1993, permitted Florida communities to obtain relief from the EO through the implementation of alternative remedial measures on a crossing-by-crossing basis, provided the alternative remedial measures have been certified by the Florida Department of Transportation (FDOT) as being fully compliant with all relevant performance specifications. However, FRA's final rule on the Use of Locomotive Horns at Highway-Rail Grade Crossings (49 CFR Part 222) issued on April 27, 2005, provides communities substantially greater flexibility in establishing quiet zones than that allowed to communities covered by EO 15. The final rule allows public authorities in the rest of the nation (with the exception of certain highway-rail grade crossings located in the six-county Chicago Region) to prohibit routine sounding of the locomotive horn at highway-rail grade crossings through the selective implementation of various grade crossing improvements on a corridor-wide basis, as opposed to implementing grade crossing improvements at each quiet zone crossing.

As early as January 13, 2000, when FRA issued a Notice of Proposed Rulemaking (NPRM) in this proceeding, FRA proposed to apply a higher excess risk estimate to FEC public crossings than other public highway-rail grade crossings nationwide, based on FRA's analysis of the pre-ban and post-ban collision data associated with FEC public crossings. Since FRA's analysis of collision data at public highway-rail grade crossings nationwide did not include collision data associated with FEC public crossings that were subject to nighttime whistle bans, FRA also solicited public comment as to what extent the pre-ban and post-ban collision data associated with FEC public crossings may be relevant to public highway-rail grade crossings located in other areas.

Shortly thereafter, FRA conducted a public hearing on March 28, 2000 in Fort Lauderdale, Florida, during which FRA noted that it was grappling with the issue of whether or not a differential requirement for mitigating crossing risk should be instituted for FEC public crossings and solicited comments on this issue. After the March 28, 2000 public hearing, FRA received comments from a number of Florida cities, including Boca Raton, Palm Beach Gardens, and West Palm Beach, who urged FRA to make its proposed regulation applicable to FEC crossings and allow the Federal regulation to supersede EO 15. FRA addressed these comments in the preamble to its Interim Final Rule on the Use of Locomotive Horns at Highway-Rail Grade Crossings (Interim Final Rule) and expressed its intent to rescind EO 15 and make the Federal regulation applicable to all highway-rail grade crossings within the State of Florida. However, FRA further stated that it would first need to resolve the issue of whether a regional estimate as to the effect of silencing the train horn should be applied to EO 15 crossings.

In an effort to re-examine the post-ban accident rate increases that occurred at FEC crossings subject to nighttime whistle bans, FRA conducted a public conference in Florida on April 15, 2005. At the conference, FRA again solicited comments on the appropriate excess risk estimate that should be applied by public authorities who wish to establish Federal quiet zones along the FEC line. Oral comments were provided at the public conference by representatives of nine organizations, including the United Transportation Union (UTU), the Brotherhood of Locomotive Engineers and Trainmen (BLET), the Brotherhood of Railroad Signalmen (BRS), FEC, PVB Consulting, Inc., the Broward County Metropolitan Planning Organization, the City of Hollywood, Florida, the City of Palm Beach Gardens, Florida, and FDOT.

The City of Hollywood, Florida expressed interest in establishing a

Federal quiet zone, noting that it has been working closely with the Tri-Rail Authority and FDOT to implement a four-quadrant gate system that appears to provide a level of safety comparable to that provided by routine sounding of the locomotive horn. In line with its previously submitted comments on FRA's proposed and final regulation, the City of Hollywood expressed its support of a rule that would strike a balance between quality of life concerns, while maintaining the current level of safety provided by routine sounding of the train horn.

The Broward County Metropolitan Planning Organization asserted that about ten percent of the State's population resides in Broward County (which contains a number of public highway-rail grade crossings along the FEC line) and that there are projections of an additional million residents over the next 20 to 25 years. The UTU also noted that the FEC highway-rail grade crossings at issue are located in an urban setting with a high number of tourists and non-English speaking immigrants. Due to international recognition of the locomotive horn as a universal signal of an approaching train, the UTU argued that the locomotive horn may be the sole device that could effectively warn pedestrians who access the FEC right-of-way of the impending arrival of the train, especially at night. Accordingly, the UTU urged FRA to retain the 195-percent excess risk estimate [1] that was derived from FRA's prior analysis on the effect of routine sounding of the locomotive horn at public highway-rail grade crossings along the FEC line.

Echoing its previously submitted comments on FRA's regulation, the BRS asserted that the data shows that grade crossing accidents increase when locomotive horn sounding is eliminated. Accordingly, the BRS stated that people who are unfamiliar with railroad operations are the people who really need the last-minute audible warning of approaching trains that is provided by the locomotive horn. As follow-up to its previously submitted statement on FRA's regulation, during which a BLET representative noted that train crews are also placed at risk when accidents occur at highway-rail grade crossings, the BLET pointed out that none of the alternative safety measures and supplemental safety measures allowed under 49 CFR part 222 will lessen the traumatic stress syndrome that is often experienced by locomotive engineers after a grade crossing accident.

PVB Consulting, Inc. argued that the root cause of the 195-percent increase in the nighttime accident rate at impacted FEC grade crossings during the five-year period that followed the enactment of nighttime whistle bans in Florida was the absence of education, engineering, and enforcement initiatives. PVB Consulting noted that a more aggressive program should have been undertaken to educate area citizens of the pros and cons of nighttime whistle bans, combined with increased police presence and crossing cameras at impacted crossings. Asserting that the provisions of this part will facilitate the use of education, engineering and enforcement initiatives at quiet zone crossings, PVB Consulting stated that the nationwide excess risk estimate of 66.8 percent should be applied to gated public highway-rail grade crossings along the FEC line.

The City of Palm Beach Gardens and the Broward County Metropolitan Planning Organization expressed interest in establishing city-wide or county-wide excess risk estimates, which would be based on available demographic data. However, FRA indicated that it would be difficult to calculate reliable city-wide or county-wide excess risk estimates that would have an acceptable level of statistical significance due to the small number of crossings that would be subject to analysis.

FDOT and FEC also provided oral and written comments, which will be discussed in more detail below.

A. FDOT

FDOT submitted two sets of written comments to FRA after FRA's April 15, 2005 public conference dated August 17, 2005 and January 13, 2006, respectively. In its written comments, FDOT asserted that local communities in the State of Florida should have the opportunity to exercise their right to designate a Federal quiet zone based on the same nationwide standard that is currently applied to other local communities. In support of this assertion, FDOT quoted FRA reports that referenced a similar increase in the accident rate (200 percent) after whistle bans were implemented in Oregon. However, FDOT noted that Oregon communities who wish to establish quiet zones are permitted to use the nationwide 66.8-percent excess risk estimate when calculating the increase in risk that may result from prohibiting routine locomotive horn use at grade crossings located within proposed quiet zone corridors. FDOT further noted that FRA had proposed to apply an even lower excess risk estimate (17.3 percent) to certain gated highway-rail grade crossings in the Chicago Region. Thus, FDOT requested that FRA permit local communities in Florida that are located on the FEC line to take advantage of the nationwide 66.8-percent excess risk estimate that is currently applied to public highway-rail grade crossings that are proposed for inclusion in a Federal quiet zone.

FRA notes that while there may have been some similarities between the regional whistle ban experience in Oregon and Florida, the Oregon and Florida whistle ban experience differ widely in scope. Local whistle bans in Oregon affected 26 highway-rail grade crossings located in two cities, which experienced two pre-ban collisions and nine post-ban collisions. In contrast, as of December 31, 1989, local whistle ban ordinances in Florida affected 511 highway-rail grade crossings, at which 39 pre-ban collisions and 115 post-ban collisions occurred.

In FRA's interim final rule, FRA proposed to apply an excess risk estimate of 17.3 percent to gated highway-rail grade crossings in the Chicago Region that were subject to pre-existing locomotive horn sounding restrictions. This proposal was derived from FRA's analysis of the effect of locomotive horn use at these crossings. FRA's analysis indicated that gated crossings in the Chicago Region that had been subject to pre-existing locomotive horn sounding restrictions (which accounted for the biggest concentration of ''whistle bans'' in the country prior to the issuance of FRA's Final Rule on the Use of Locomotive Horns at Highway-Rail Grade Crossings) had a statistical profile that was distinctly different from gated crossings in the rest of the nation that were subject to local whistle bans. FRA notes that a number of unique factors may have contributed to this result, including the discretionary compliance by railroads with local no-whistle policies.

FDOT also asserts that FRA's analysis of the Florida whistle ban experience was flawed because FRA failed to consider utilization of the affected rail corridor(s) by the railroad. As reflected in FRA's Report on Florida's Train Whistle Ban issued in October 1995,

[1] The excess risk estimate is a figure that represents the amount by which collision frequency has been estimated to increase when routine sounding of the locomotive horn at public highway-rail grade crossings is restricted. When FRA conducted a study on the effect of nighttime whistle bans on the accident rate at public highway-rail grade crossings along the FEC line, FRA found that the nighttime accident rate at impacted FEC crossings increased 195 percent after nighttime whistle bans were imposed. This 195-percent increase in the nighttime accident rate at impacted FEC crossings is the 195-percent excess risk estimate that the UTU representative has urged FRA to apply to all public highway-rail grade crossings along the FEC line.

FRA compared the accident data on the basis of Accidents per Crossing Month. FDOT asserts that this approach is flawed because it does not measure the true opportunity for an incident to occur. FDOT asserts that the true opportunity for grade crossing accidents to occur should be normalized using the number of trains that operated over the subject grade crossing (which could be reflected by grade crossing activation rates), as opposed to measuring the accident rate as a unit of time.

FRA acknowledges that train traffic volume could have an impact on the accident rate at specific highway-rail grade crossings. However, any potential impact would necessarily depend on highway traffic patterns as well. Obviously, for a grade crossing accident to occur, train and highway traffic must be present at the crossing at the same time. However, FRA focused its analysis on comparisons between the number of nighttime accidents reported at FEC crossings subject to nighttime whistle bans with the number of accidents associated with two control groups, in order to determine the impact of nighttime whistle bans at those crossings.

Assuming that the number of trains operating along the FEC line remained constant during the study period, FDOT also noted a large differential between pre-ban accident rates at FEC grade crossings that were subject to nighttime whistle bans and corresponding pre-ban accident rates at FEC grade crossings that remained unaffected by nighttime whistle bans, when analyzed in relation to the number of crossing activations per accident. In light of this data, which has been presented below, FDOT asserts that there must be a measurable, causal element that has not yet been thoroughly considered in previous analyses on this issue:

	Pre-ban crossing activations per accident (approximate)	Post-ban crossing activations per accident (approximate)
FEC w/Ban	289,000	96,000
FEC No Ban	135,000	162,000
CSX No Ban	40,000	62,000

Despite FDOT's objection to the method used by FRA to calculate crossing accident rates, FDOT's comparison of the pre-ban and post-ban accident rates at FEC crossings that were subject to nighttime whistle bans seems to reinforce FRA's earlier findings that the risk level at FEC highway-rail grade crossings subject to nighttime whistle bans deteriorated significantly after routine locomotive horn sounding practices were discontinued. According to calculations provided by FDOT, there was approximately one accident for every 289,000 crossing activations at FEC grade crossings that would later be impacted by nighttime whistle bans. During the five-year period following implementation of nighttime whistle bans, however, there was approximately one accident for every 96,000 crossing activations at FEC grade crossings subject to nighttime whistle bans.

FRA disagrees with the conclusion that the data presented by FDOT must be interpreted as being indicative of a measurable element that has not yet been thoroughly considered by previous analyses on this issue. Even though accident rates associated with FEC grade crossings that were subject to nighttime whistle bans may differ from accident rates associated with FEC grade crossings that were not impacted by nighttime whistle bans when evaluated in relation to the number of crossing activations per accident, this result is potentially misleading. As noted above, any potential impact associated with train traffic volume must be evaluated in light of highway traffic patterns at the specific highway-rail grade crossings at issue before any conclusion should be drawn as to the existence of a measurable element that has not yet been thoroughly considered by previous analyses on this issue.

FDOT also asserts that FRA's Final Report on Florida's Train Whistle Ban (''1995 FRA Report'') issued in September 1995, does not provide sufficient background information to support the pre-ban and post-ban accident rates associated with FEC crossings subject to nighttime whistle bans. In particular, FDOT notes that the 1995 FRA Report does not explain how the ''Number of Crossing Months'' value was calculated for these crossings.

FRA disagrees with this assertion. In Appendix C to the 1995 FRA Report, FRA provided an explanation of how the ''Number of Crossing Months'' value was calculated for FEC crossings that were subject to nighttime whistle bans. An explanation was also provided on page 9 of the Second Edition of FRA's Report on Florida's Train Whistle Ban (''1992 FRA Report'') issued in September 1992. As stated in these reports, the ''Number of Crossing Months'' value was calculated by multiplying the number of crossings impacted by each local ordinance by the number of months during which the local ordinance was in effect and then totaling the results for all FEC crossings that were subject to nighttime whistle bans. FRA provided background information on the data used to calculate the effect of nighttime whistle bans, so that interested parties could review, verify and comment upon FRA's findings.

FDOT also asserts that the pre-ban and post-ban accident rates for FEC crossings that were subject to nighttime whistle bans should not have been calculated using the same ''Number of Crossing Months'' value. FRA acknowledges that different ''Number of Crossing Months'' values were used to calculate the pre-ban and post-ban accident rates associated with FEC No Ban and CSX crossings. However, FRA purposefully used the same ''Number of Crossing Months'' value when evaluating pre-ban and post-ban accident rates for FEC crossings subject to nighttime whistle bans. As stated above, the ''Number of Crossing Months'' value for FEC crossings subject to nighttime whistle bans was calculated by multiplying the number of crossings impacted by each local ordinance times the number of months during which the local ordinance was in effect and then totaling the results for all crossings that were subject to nighttime whistle bans. For example, there was only one month of post-ordinance accident data available for crossings in Holly Hill, Florida because the applicable whistle ban ordinance did not take effect until November 4, 1989. Therefore, researchers used only one month of pre-ordinance data (October 1989) in their analysis. In contrast, FRA compared 59 months of pre-ban accident data (February 1980 through December 1984) with 59 months of post-ban accident data (February 1985 through December 1999) for FEC

highway-rail grade crossings located in Lantana and New Smyrna Beach. Since the variables used to calculate this ''Number of Crossing Months'' value would not change when evaluating pre-ban or post-ban accident totals associated with FEC crossings that were subject to nighttime whistle bans, FRA used the same ''Number of Crossing Months'' value to calculate pre-ban and post-ban accident rates for these highway-rail grade crossings.

In contrast, the FEC No Ban and CSX crossings that were studied were not subject to nighttime whistle bans. Therefore, FRA calculated the ''Number of Crossing Months'' value by multiplying the number of crossings under consideration times the number of months in either the pre-ban or post-ban study period. Since these variables would necessarily change when evaluating pre-ban or post-ban accident data, FRA used different ''Number of Crossing Months'' values to calculate pre-ban and post-ban accident rates for the FEC No Ban and CSX crossings that were studied.

FDOT notes the exemplary collision history associated with five improved highway-rail grade crossings in Broward, Palm Beach and Dade counties (counties that also contain FEC grade crossings). Four of these grade crossings have undivided approaches and are equipped with four-quadrant gate systems. The remaining grade crossing, which is equipped with four-quadrant gates and medians, constituted the only official quiet zone within the State of Florida on the date on which FDOT's comments were filed. FDOT asserts that there have not been any vehicle-train collisions at any of these improved highway-rail grade crossings since the installation of four-quadrant gate systems.

FDOT also provides an accident history summary for 27 CSX grade crossings located in the Palm Beach, Broward, and Dade counties, which have been improved through engineering improvements since 1995. These engineering improvements include six-inch barrier curbs and four-quadrant gate systems. Applying FDOT's accident rate analysis discussed above, FDOT compared the accident rate for the 27 improved grade crossings to pre-ban and post-ban accident rates for 224 CSX crossings that were comparable to the FEC crossings that were subject to nighttime whistle bans. FDOT concluded that the estimated accident rate for the 27 improved grade crossings (one accident for every 174,000 crossing activations) is much lower than the estimated pre-ban and post-ban accident rates for the 224 CSX crossings that were comparable to the FEC crossings that were subject to nighttime whistle bans. This would seem to indicate that engineering improvements, such as four-quadrant gate systems and non-traversable curbs, installed at comparable grade crossings along the FEC line could compensate for an increase in risk caused by the absence of warning provided by the locomotive horn.

In its second set of written comments dated January 13, 2006, FDOT provided additional information about the significant changes that have occurred since EO 15 was issued, which have improved safety at grade crossings within the State of Florida. FDOT notes that there has been expanded use of bi-lingual and tri-lingual signs and rail awareness campaigns to provide information about highway-rail grade crossing hazards via literature, television, and radio media, as well as rail crossing safety placards and slogans on bus, transit and commuter rail terminals. In addition, numerous engineering design improvements in the area of highway-rail grade crossing safety have been implemented, including the installation of median treatments and the increased use of constant warning time devices that are interconnected with traffic control devices. As of January 13, 2006, FDOT asserted that active highway-rail grade crossing warning devices had been installed at over 71 percent of public highway-rail grade crossings within the State of Florida and that there were an increasing number of four-quadrant gate systems. An automated video monitoring and surveillance system has also been installed at the McNab Road quiet zone crossing, which allows the system to collect real-time data on vehicle flow, crossing usage, and train volume for use by the railroad and regional roadway transportation authorities.

B. FEC

FEC is a regional, Class II railroad that, as of October 12, 2005, operated over approximately 719 highway-rail grade crossings along Florida's east coast. FEC asserts that it operates through some of the most heavily populated communities in the country and intersects some of the most heavily traveled roadways in Florida. In response to the FRA public conference that was held on April 15, 2005, FEC submitted two sets of written comments, dated April 15, 2005 and October 12, 2005. In these comments, FEC requested that FRA retain the current 195 percent excess risk estimate for public FEC highway-rail grade crossings.

In support of this request, FEC notes that the risks when locomotive horns are silenced at public FEC grade crossings have been separately studied, analyzed, and reviewed in-depth. As a result of these studies, FRA has consistently found that the imposition of nighttime whistle bans at public FEC highway-rail grade crossings resulted in at least a 195-percent increase in the nighttime accident rate at these crossings. In fact, the nationwide 66.8-percent excess risk estimate was derived from studies of nationwide grade crossing data that excluded collision information related to FEC crossings. Asserting that the 66.8-percent nationwide excess risk estimate is simply not applicable to public FEC highway-rail grade crossings, FEC argues that the 195-percent excess risk estimate should continue to apply to ensure that the substitution of supplementary (or alternative) safety measures at certain crossings within a proposed quiet zone will adequately compensate for the increased risk that results from the lack of routine locomotive horn use.

In its written comments dated October 12, 2005, FEC asserts that FDOT is questioning the results of the FRA studies on Florida's Train Whistle Ban without sufficient explanation and without full, supporting data. Although FEC noted FDOT's contentions that certain recalculations are needed and further considerations should be undertaken by FRA in view of the fact that Florida has 14 operating railroads, FEC asserts that FDOT summarily concluded its comments by asking that the 66.8-percent nationwide excess risk estimate be applied to all highway-rail grade crossings within the State of Florida, without providing any evidence that this estimate would be appropriate for public FEC highway-rail grade crossings.

FRA remains confident that its prior analysis of the effect of nighttime whistle bans produced a statistically significant estimate of the effect of prohibiting routine nighttime locomotive horn use at public FEC highway-rail grade crossings during the mid-1980s to early 1990s. However, FRA is also cognizant of the fact that engineering improvements have had a recognizable effect on grade crossing safety at public highway-rail grade crossings throughout the State of Florida. As noted by FDOT in its written comments, grade crossing accident rates have significantly declined at ''improved'' CSX highway-rail grade crossings in Palm Beach, Broward, and Dade counties after engineering improvements such as four-quadrant

gate systems and non-traversable curbs have been implemented. Thus, it would appear that the supplementary safety measures identified in Appendix A to 49 CFR Part 222 would provide a comparable increase in safety upon implementation at comparable FEC crossings. The difficulty presented by this proceeding is determining comparability. FRA has once again attempted to determine local conditions in order to establish comparability as much as possible.

II. Calculation of the 90.9-Percent Excess Risk Estimate for Public Highway-Rail Grade Crossings Along the FEC Line

In addition to the increased nighttime accident rate at gated FEC grade crossings that were subject to nighttime whistle bans, FRA's analysis indicated that there was a 67-percent increase in nighttime accident rates at 224 comparable CSX highway-rail grade crossings that were not subject to nighttime whistle bans. These CSX grade crossings were carefully screened, so that the characteristics of these CSX grade crossings would closely match FEC grade crossings that were subject to nighttime whistle bans during the study period. FRA's analysis also indicated that there was a 23-percent increase in nighttime accident rates at 89 public FEC highway-rail grade crossings that were not subject to nighttime whistle bans (''FEC No Ban'' grade crossings). Upon further review of the accident data, FRA has determined that these nighttime accident rate increases are particularly relevant to the determination of the excess risk estimate that should be applied to public highway-rail crossings along the FEC line. It appears reasonable to conclude that there would have been an increase in the nighttime accident rate at FEC grade crossings subject to nighttime whistle bans similar to that experienced at the CSX and FEC No Ban grade crossings, regardless of the change in locomotive horn sounding practices. Operating under this premise, FRA calculated the average nighttime accident rate increases for the group of 313 CSX and FEC grade crossings that were not subject to nighttime whistle bans per the following formula:

Average Rate Increase = ((89 FEC No Ban Grade Crossings * 23% increase in their accident rate) + (224 Comparable CSX Grade Crossings * 67% increase in their accident rate))/313 Total CSX and FEC No Ban Crossings

Accordingly, the average nighttime accident rate increase for the group of 313 public highway-rail grade crossings, comprised of comparable CSX grade crossings and FEC No Ban grade crossings was 54.5 percent during the post-ban study period.

These distinct nighttime accident rate increases, which occurred during the post-ban study period at the 224 comparable CSX grade crossings and 89 FEC No Ban grade crossings, were not incorporated into FRA's calculation of the 195-percent nighttime accident rate increase at FEC grade crossings that were subject to nighttime whistle bans. Therefore, FRA has revised its previous estimate of the impact of nighttime whistle bans during the post-ban period on FEC grade crossings that were subject to nighttime whistle bans by ''backing out'' any effect related to a generalized increase in general crossing risk in the region. As discussed above, the comparison sets chosen were FEC No Ban grade crossings and comparable CSX grade crossings, and the study period and selection criteria were the same as for the FEC grade crossings that were subject to nighttime whistle bans. It was observed that collisions at FEC grade crossings subject to nighttime whistle bans increased 195 percent during the post-ban study period (from a constructive value of 100, representing the total of pre-ban accidents, to 295, the sum of the prior level and the increase), while FEC No Ban grade crossings and comparable CSX grade crossings in the control group increased 54.5 percent (from a constructive base value of 100, representing the total of prior accidents, to 154.5). The percentage of increase required to achieve 295 from the 154.5 base for the control group is approximately 90.9 percent (e.g., .909 * 154.5 = 140.441, and 140.441 + 154.5 = 294.941). Thus, FRA concludes that a good measure of the increase in collision risk from silencing the train horn in the region is on the order of 90.9 percent.

FRA is aware that many changes have occurred in the region since the period in question. These include engineering improvements, demographic changes, increases in road traffic levels, and likely some improvements in public education and awareness related to crossing safety. Many of these changes apply to FEC crossings that are currently subject to EO 15 and to crossings not so affected. There is no particular reason to believe, however, that—as to the differential risk involved—the 90.9 percent estimate would not be valid.

FRA is cognizant of the fact that the FEC bans were nighttime-only bans and that 24-hour quiet zones may be sought in the future. FRA has no body of information that would permit it to apply a different excess risk estimate in connection with 24-hour bans. Engineering improvements are the principal means used by communities under Part 222 to achieve risk reduction and quality for quiet zones. So far as FRA is aware, engineering improvements are equally effective regardless of time of day. Indeed, communities along the FEC line will benefit in terms of qualifying for quiet zones for many locations where lengthy medians and other arrangements are in place. Improvements that have been made in the interim on the CSX/Tri-Rail corridor, including simple four-quadrant gate arrangements, show how success can be fully achieved. Although FRA might speculate that 24-hour effects are less dramatic (e.g., because motorists expect the horn to sound, and it does not sound for a portion of the day), FRA has no empirical basis to do this. To the extent that we err, we err in favor of the safety objectives behind the legislation giving rise to FRA's regulation on the Use of Locomotive Horns at Highway-Rail Grade Crossings.

III. Rescission of FRA Emergency Order No. 15

On the effective date of this final rule, EO 15 will be rescinded and the provisions of this part will apply to highway-rail grade crossings along the FEC line. Therefore, locomotive horn sounding will continue to be required at all public highway-rail grade crossings along the FEC line that are not located within Federal quiet zones. In addition, as of the effective date of this final rule, locomotive horn sounding at public highway-rail grade crossings along the FEC line will have to be conducted in accordance with the requirements contained in section 222.21 of this part.

As discussed in the preamble to the interim final rule, FEC submitted comments noting that FRA's proposed regulation did not address its intended effect on pre-existing restrictions on the sounding of locomotive horns at highway-rail grade crossings that remain on the books. While FEC explained that it assumed that all local ordinances preempted by EO 15 would remain null and void when FRA's regulation on the Use of Locomotive Horns at Highway-Rail Grade Crossings is made applicable to all highway-rail grade crossings within the State of Florida, FEC requested that FRA specifically address the status of impacted crossings in the final rule so as to avoid any confusion among former whistle ban jurisdictions.

Unlike EO 15, the provisions contained within this part only have a limited preemptive effect on State laws governing the use of locomotive audible

warning devices other than the locomotive horn at public highway-rail grade crossings. As reflected in section 222.21(e) of this part, FRA regulations do not require the sounding of locomotive audible warning devices other than the locomotive horn at public highway-rail grade crossings. However, if State law requires the sounding of a locomotive audible warning device other than the locomotive horn at public highway-rail grade crossings, then the requirements contained in subsections (b) and (d) of section 222.21 of this part will apply to the sounding of the locomotive audible warning device.

In addition, as of the effective date of this final rule, the provisions contained within this part will have limited preemptive effect on State laws governing the use of train borne audible warnings at private highway-rail grade crossings, as well as pedestrian grade crossings. For example, section 222.45 prohibits routine locomotive horn sounding at private highway-rail grade crossings and pedestrian grade crossings located within duly established Federal quiet zones. FRA regulations do not, however, require the sounding of locomotive audible warning devices at private highway-rail grade crossings or pedestrian grade crossings. Only if State law requires the sounding of locomotive audible warning devices at private highway-rail grade crossings or pedestrian grade crossings will the requirements set forth in this part apply.[2]

In the preamble to the interim final rule, FRA discussed the types of quiet zones (i.e., New Quiet Zone versus Pre-Rule Quiet Zone) that could be established by public authorities seeking to restrict routine locomotive horn sounding at highway-rail grade crossings which are currently subject to EO 15. As stated in the preamble, since the authorizing Florida statute and related local ordinances that imposed nighttime whistle bans at certain FEC crossings were not enforced or observed on October 9, 1996, and no quiet zones containing FEC crossings had been established as of that date pursuant to the procedures set forth in the EO 15 amendments, public authorities who wish to establish Federal quiet zones that include highway-rail grade crossings currently subject to EO 15 will not be able to qualify for Pre-Rule Quiet Zone status. Therefore, any public authority seeking to establish a Federal quiet zone that contains any highway-rail grade crossing currently subject to EO 15 will need to comply with the requirements for New Quiet Zones (or New Partial Quiet Zones) contained in 49 CFR Part 222.

On or after the effective date of this final rule, public authorities will, however, be authorized to implement wayside horns at public highway-rail grade crossings equipped with flashing lights and gates, pursuant to the requirements contained within this part, as an alternative to the audible warning provided by routine sounding of the locomotive horn.[3] FRA acknowledges that, when EO 15 was issued, FRA was not prepared to endorse the implementation of wayside horns at highway-rail grade crossings along the FEC line as an acceptable substitute for routine sounding of the locomotive horn. However, subsequent to the issuance of EO 15, a number of studies were conducted on the effectiveness of wayside horn installations, the results of which indicated that the use of wayside horns at highway-rail grade crossings equipped with flashing lights and gates has merit under certain well-defined conditions.[4] In addition to a significant reduction in noise impacts on the surrounding community when compared to routine locomotive horn sounding practices, these studies revealed that the implementation of wayside horn systems at highway-rail grade crossings equipped with active warning devices does not appear to degrade safety after routine locomotive horn sounding practices have been discontinued. FRA also notes that, in its comments on the NPRM and interim final rule, FDOT expressed support for the use of wayside horns in certain instances where it is impossible or impracticable to install supplementary safety measures. While FRA does not agree that the use of wayside horns should be limited to situations where the implementation of supplementary safety measures would be impractical or impossible, based on the results of studies that evaluated the effectiveness of wayside horn installations, the provisions of part 222 which address the implementation of wayside horn systems will apply to highway-rail grade crossings along the FEC line as of the effective date of this final rule.

IV. Section-By-Section Analysis

Appendix G—Excess Risk Estimates for Public Highway-Rail Grade Crossings

Appendix G has been added to this part to establish a 90.9-percent excess risk estimate for public highway-rail grade crossings that are located along the FEC line. The excess risk estimate is a figure that represents the amount by which collision frequency has been estimated to increase when routine locomotive horn sounding is restricted at public highway-rail grade crossings. Please refer to the previous section titled, ''Calculation of the 90.9-Percent Excess Risk Estimate for Public Highway-Rail Grade Crossings Along the FEC Line'', for more information about the calculations that were used to derive the excess risk estimate for public highway-rail grade crossings located along the FEC line.

Appendix G only provides an excess risk estimate for public FEC crossings that are equipped with flashing lights and gates. FRA has not provided excess risk estimates for passive FEC crossings or public FEC crossings that are only equipped with flashing lights because public authorities will only be permitted to establish New Quiet Zones (or New Partial Quiet Zones) on the FEC line. As stated in section 222.35(b), all public highway-rail grade crossings located in New Quiet Zones or New Partial Quiet Zones must be equipped with active grade crossing warning devices comprising both flashing lights and gates.

Public authorities who are interested in establishing a New Quiet Zone (or New Partial Quiet Zone) on the FEC line are advised to use FRA's Quiet Zone Calculator, which can be accessed from FRA's Web site at *http://www.fra.dot.gov*. FRA's Quiet Zone Calculator will automatically apply the 90.9-percent excess risk estimate to public highway-rail grade crossings along the FEC line. The calculator can be used as a tool by public authorities for determining which combination of Supplementary Safety Measures and Alternative Safety Measures (if any) will be necessary to reduce their Quiet Zone Risk Index to an acceptable level for quiet zone establishment (i.e., the Nationwide Significant Risk Threshold

[2] If State law requires locomotive horn sounding at private highway-rail grade crossings or pedestrian grade crossings, the requirements contained in section 222.21 of this part will apply. However, if State law requires the sounding of a locomotive audible warning device other than the locomotive horn at private highway-rail grade crossings or pedestrian grade crossings, then the requirements of subsections (b) and (d) of section 222.21 of this part will apply to the sounding of that locomotive audible warning device.

[3] A wayside horn system typically consists of horns mounted on poles that are placed at the highway-rail grade crossing. A horn is directed towards each direction of oncoming vehicular traffic. The system is activated by the same track circuits used to detect the train's approach for purposes of other automated warning devices at the crossing (flashing lights and gates) and produces an audible warning similar to warning provided by an approaching train.

[4] A detailed discussion of the studies that were conducted on the effectiveness of wayside horn system installations can be found in FRA's Interim Final Rule on the Use of Locomotive Horns at Highway-Rail Grade Crossings (68 FR 70586, 70607–70609).

or the Risk Index With Horns). Please refer to Appendix C of this part for a detailed guide to the establishment of quiet zones under this part.

Appendix H—Schedule of Civil Penalties

The former Appendix G to this part has been redesignated as Appendix H. No other revisions have been made to this Appendix.

V. Regulatory Impact

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule has been evaluated and determined not to be a ''significant regulatory action'', as defined in section 3(f) of Executive Order 12866, nor a ''significant regulation'' under the Regulatory Policies and Procedures order issued by DOT (44 FR 11034). FRA has determined that this final rule will have a minimal cost impact with positive net benefits. Under this final rule, locomotive horn sounding will continue to be required at public grade crossings along the FEC line, unless the public authority decides to include the public grade crossing within a Federal quiet zone. Due to the voluntary nature of quiet zone establishment, Florida cities and counties will establish quiet zones only if the quiet zone benefits exceed the costs. FRA estimates that this rule will potentially affect the 72 governmental jurisdictions (cities, counties, towns, townships, villages, etc.) that are located along the FEC line. Of these 72 jurisdictions, the municipalities most likely to be affected are the 15 cities and seven counties listed below that had whistle bans during the 1980s and early 1990s, who may wish to re-impose restrictions on routine locomotive horn sounding at grade crossings through the establishment of Federal quiet zones.

CONSOLIDATED PRIOR WHISTLE BAN JURISDICTIONS

Municipality	Effective date	Small city	Large city	County	Total
Dade County	7/29/1984			1	
City of Hollywood	11/11/1984		1		
City of Daytona Beach	11/12/1984		1		
City of South Daytona	11/19/1984	1			
City of New Smyrna Beach	1/7/1985	1			
Martin County	1/21/1985			1	
City of Fort Lauderdale	3/4/1985		1		
City of Hallandale	7/1/1985	1			
City of Wilton Manors	8/12/1985	1			
City of Pompano Beach	9/9/1985		1		
City of Deerfield Beach	11/27/1985		1		
City of Oakland Park	3/20/1986	1			
Indian River County	2/25/1987			1	
City of Port Orange	6/4/1988		1		
St. Lucie County	8/1/1988			1	
St. Johns County	9/27/1988			1	
Palm Beach County	3/25/1989			1	
City of Sebastian	7/14/1989	1			
City of Ormond Beach	10/9/1989	1			
City of Holly Hill	11/4/1989	1			
Brevard County	11/27/1989			1	
City of Edgewater	1/29/1990	1			
Subtotal		9	6	7	22
Percentage		41%	27%	32%	100%

Note 1: Cities that were later covered under a county whistle ban ordinance are not listed here.
Note 2: A small city is one that has a population of less than 50,000 people (according to the SBA).
Source: FRA Report ''Florida's Train Whistle Ban'' (October 1995); U.S. Census Bureau.

FRA sampled three out of the 9 small cities (33 percent), two out of the six large cities (33 percent), and three out of the seven counties (43 percent) on the FEC line that had whistle bans during the 1980s and early 1990s. Thus, the total sample analyzed was a 36-percent sample (8/22 = 36%). These sampled jurisdictions were selected on the basis of being representative of the jurisdictions contained within each category of prior whistle ban jurisdictions. Based on a 36-percent sample of prior whistle ban jurisdictions along the FEC line, the average total cost of this final rule over 20 years for the 15 cities and seven counties that had whistle bans during the 1980s and early 1990s and may wish to re-impose restrictions on routine locomotive horn sounding is estimated to be about $7.5 million or $6.3 million in present value cost (in 2008 dollars, 7 percent discount rate). The table below shows a breakdown of these total costs by category.

TOTAL COSTS PER CATEGORY FOR PRIOR WHISTLE BAN JURISDICTIONS

Category	Total (undiscounted)
Small Cities	$549,000
Large Cities	840,000
Counties	6,104,000
Grand Total Costs	7,493,000

These costs will only be incurred if the local government believes the quiet zone benefits exceed the costs. As stated above, locomotive horn sounding will continue to be required at public grade crossings along the FEC line. However, this final rule will allow local governments along the FEC line to impose restrictions on locomotive horn

sounding at grade crossings, provided measures are taken to compensate for any excess risk associated with the locomotive horn sounding restrictions. Thus, the impact of this final rule is expected to be similar to that found in the analysis for new quiet zones that FRA conducted for the final rule titled, ''Use of Locomotive Horns at Highway-Rail Grade Crossings'', which was issued on April 27, 2005 (70 FR 21844). Because new quiet zone establishment requirements were designed to ensure that safety levels would be maintained and communities establish quiet zones only to the extent that they believe benefits from doing so will exceed costs, that analysis concluded that the rule would be cost beneficial. That argument applies to this rule as well.

Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this final rule. Thus, a full regulatory evaluation was not prepared. FRA has, therefore, determined that this final rule is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not a ''significant regulation'' as defined in DOT's Regulatory Policies and Procedures.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of proposed and final rules to assess their impact on small entities, unless the agency certifies that the rule will have a significant economic impact on a substantial number of small entities. The Regulatory Flexibility Act covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

The Small Business Administration (SBA) stipulates that governmental jurisdictions, which include cities, counties, towns, townships, villages, school districts, or special districts, with populations of less than 50,000 people, are small entities. (5 U.S.C. 601) Among the 66 governmental jurisdictions along the FEC line that would potentially be impacted by this final rule, data from the 2000 U.S. Census indicates that 49 jurisdictions had populations of less than 50,000 people, while 17 jurisdictions had populations of greater than 50,000 people.

Approximately 74 percent (49/66 = 74%) of the potentially affected governmental jurisdictions along the FEC line would be considered small entities under SBA criteria, based on data from the 2000 U.S. Census. For comparison purposes, data from the 2006 Population Estimates (source: U.S. Census Bureau) is also shown in the next table. Even though data from the 2000 U.S. Census reflects actual population counts, the estimated population figures contained in the 2006 Population Estimates are more up-to-date. (The next U.S. Census survey that will provide an actual population count will not be conducted until 2010.) The 49 small entities with known population counts that could be impacted by this final rule are listed in the table below:

SMALL ENTITIES ALONG THE FEC LINE

Number	County	City	2000 Census population	2006 Population Estimates
1	Brevard	Cocoa	16,412	16,743
2	Brevard	Malabar	2,622	2,743
3	Brevard	Mims	9,147	???
4	Brevard	Rockledge	20,170	24,290
5	Brevard	Titusville	40,670	44,027
6	Broward	Dania	20,061	28,802
7	Broward	Hallandale	34,282	39,372
8	Broward	Oakland Park	30,966	42,384
9	Broward	Wilton Manors	12,697	12,909
10	Dade	Coral Gables	42,249	42,794
11	Dade	Cutler Ridge	24,781	???
12	Dade	El Portal	2,505	2,399
13	Dade	Florida City	7,843	9,445
14	Dade	Goulds	7,453	???
15	Dade	Homestead	31,909	53,767
16	Dade	Medley	1,098	1,050
17	Dade	Miami Shores	10,380	9,882
18	Dade	Perrine (East)	7,079	7,477
19	Dade	Perrine (West)	8,600	9,084
20	Dade	North Miami Beach	40,786	39,030
21	Flagler	Bunnell	2,122	1,706
22	Indian River	Sebastian	16,181	20,255
23	Indian River	Vero Beach	17,705	16,939
24	Martin	Hobe Sound	11,376	???
25	Martin	Port Salerno	10,141	???
26	Martin	Sewalls Point	1,946	2,024
27	Martin	Stuart	14,633	16,155
28	Palm Beach	Belle Glade	14,906	15,233
29	Palm Beach	Belle Glade Camp	1,141	???
30	Palm Beach	Hypoluxo	2,015	2,596
31	Palm Beach	Jupiter	39,328	48,847
32	Palm Beach	Lake Park	8,721	8,893
33	Palm Beach	Lake Worth	35,133	35,980
34	Palm Beach	Lantana	9,437	10,334
35	Palm Beach	Mangonia Park	1,283	1,262
36	Palm Beach	Pahokee	5,985	6,581

SMALL ENTITIES ALONG THE FEC LINE—Continued

Number	County	City	2000 Census population	2006 Population Estimates
37	Palm Beach	Palm Beach Gardens	35,058	48,914
38	Palm Beach	Riviera Beach	29,884	35,846
39	Palm Beach	South Bay	3,859	4,554
40	Palm Beach	Tequesta	5,273	5,942
41	St. Johns	St. Augustine	11,592	12,064
42	St. Lucie	Fort Pierce	37,516	39,365
43	Volusia	Edgewater	18,668	21,486
44	Volusia	Holly Hill	12,119	13,325
45	Volusia	New Smyrna Beach	20,048	22,732
46	Volusia	Oak Hill	1,378	1,575
47	Volusia	Ormond Beach	36,301	38,504
48	Volusia	Port Orange	45,823	54,851
49	Volusia	South Daytona	13,177	13,541

Source: U.S. Census Bureau.

Seventeen of these small entity jurisdictions had whistle bans in place during the 1980s and early 1990s. These seventeen jurisdictions, which are most likely to be affected by this final rule, are shown below:

SMALL ENTITY FEC WHISTLE BAN JURISDICTIONS

Number	Municipality	County	Effective date of whistle ban	2000 Census population	2006 Population Estimates
1	City of Hypoluxo *	Palm Beach	9/24/1984	2,015	2,596
2	Village of Tequesta *	Palm Beach	10/23/1984	5,273	5,942
3	City of South Daytona	Volusia	11/19/1984	13,177	13,541
4	Town of Lantana *	Palm Beach	1/7/1985	9,437	10,334
5	City of New Smyrna Beach	Volusia	1/7/1985	20,048	22,732
6	Town of Jupiter *	Palm Beach	1/29/1985	39,328	48,847
7	City of Lake Worth *	Palm Beach	2/15/1985	35,133	35,980
8	City of Hallandale	Broward	7/1/1985	34,282	39,372
9	City of Wilton Manors	Broward	8/12/1985	12,697	12,909
10	City of Oakland Park	Broward	3/20/1986	30,966	42,384
11	City of Fort Pierce **	St. Lucie	6/28/1986	37,516	39,365
12	Town of Malabar ***	Brevard	4/13/1988	2,622	2,743
13	City of Titusville ***	Brevard	5/20/1988	40,670	44,027
14	City of Sebastian	Indian River	7/14/1989	16,181	20,255
15	City of Ormond Beach	Volusia	10/9/1989	36,301	38,504
16	City of Holly Hill	Volusia	11/4/1989	12,119	13,325
17	City of Edgewater	Volusia	1/29/1990	18,668	21,486

* These cities were later covered under the Palm Beach County Ordinance (effective date of 3/25/89).
** These cities were later covered under the St. Lucie County Ordinance (effective date of 3/1/88).
*** These cities were later covered under the Brevard County Ordinance (effective date of 11/27/89).
Source: FRA Report ''Florida's Train Whistle Ban'' (October 1995); U.S. Census Bureau.

By the end of 1989, eight of these small entity whistle ban jurisdictions became part of county-wide whistle ban ordinances (as indicated in the table above). As these county-wide whistle ban ordinances cover governmental jurisdictions that have populations of more than 50,000 people, eight of the previously determined small entity whistle ban jurisdictions were removed from FRA's list of small entities that are most likely to be affected by this final rule. Thus, this rule will most likely affect nine small entities (17 − 8 = 9). These nine small entities along with the estimated cost associated with implementing upgrades are shown below.

SMALL ENTITIES MOST LIKELY TO BE AFFECTED BY THE FINAL REGULATION

Number	Municipality	County	2000 Census population	2006 Population estimates	Estimated establishment costs (undiscounted)
1	City of South Daytona	Volusia	13,177	13,541	$61,000
2	City of New Smyrna Beach	Volusia	20,048	22,732	93,000
3	City of Hallandale	Broward	34,282	39,372	70,000
4	City of Wilton Manors	Broward	12,697	12,909	61,000
5	City of Oakland Park	Broward	30,966	42,384	20,000
6	City of Sebastian	Indian River	16,181	20,255	61,000

SMALL ENTITIES MOST LIKELY TO BE AFFECTED BY THE FINAL REGULATION—Continued

Number	Municipality	County	2000 Census population	2006 Population estimates	Estimated establishment costs (undiscounted)
7	City of Ormond Beach	Volusia	36,301	38,504	61,000
8	City of Holly Hill	Volusia	12,119	13,325	61,000
9	City of Edgewater	Volusia	18,668	21,486	61,000

Source: FRA Report ''Florida's Train Whistle Ban'' (October 1995); U.S. Census Bureau.

The impact on these small entity jurisdictions will vary depending on whether they would have to implement additional safety measures to establish quiet zones and the type(s) of safety measures that may be appropriate for implementation. In addition, these small entity jurisdictions will need to decide whether to implement such measures or continue to allow the locomotive horns to be sounded. The impact of these decisions will also vary depending on the number of crossings in quiet zones, the population density of the community neighborhoods that immediately surround the affected grade crossings, and train traffic volume over the affected crossings. Even though this final rule will allow public authorities to establish Federal quiet zones that include grade crossings along the FEC line, the establishment of quiet zones is optional, so small entities will establish quiet zones only if the quiet zone benefits exceed the costs. Thus, FRA certifies that this final rule is not expected to have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

There are no information collection requirements or burden per se associated with this final rule. However, once this final rule goes into effect, public authorities will be permitted to establish New Quiet Zones along the FEC line in accordance with 49 CFR 222. Presently, the entire information collection burden associated with Part 222 is approved under FRA OMB No. 2130–0560. FRA intends to revise this presently approved collection to account for any changes in burden caused by this rulemaking and to request re-approval from OMB once this final rule takes effect.

D. Environmental Impact

FRA has evaluated this final rule in accordance with its ''Procedures for Considering Environmental Impacts'' (''FRA's Procedures'') (64 FR 28545, May 26, 1999) as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related regulatory requirements. FRA has determined that this final rule is not a major FRA action (requiring the preparation of an environmental impact statement or environmental assessment) because it is categorically excluded from detailed environmental review pursuant to section 4(c)(20) of FRA's Procedures. In accordance with section 4(c) and (e) of FRA's Procedures, the agency has further concluded that no extraordinary circumstances exist with respect to this final rule that might trigger the need for a more detailed environmental review. As a result, FRA finds that this final rule is not a major Federal action significantly affecting the quality of the human environment.

E. Federalism Implications

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''E.O. 13132''). E.O. 13132, which was issued on August 4, 1999, requires each agency that promulgates ''any regulation that has federalism implications, that imposes substantial direct compliance costs on State and local governments, and that is not required by statute'' to consult with State and local officials early in the process of developing the proposed regulation; and in a separately identified portion of the preamble to the regulation, to provide to the Director of the Office of Management and Budget ''a federalism summary impact statement, which consists of a description of the extent of the agency's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met * * *.''

FRA has complied with E.O. 13132 in issuing this final rule. Even though this final rule does not impose substantial direct compliance costs on State and local governments, FRA consulted extensively with State and local officials prior to the issuance of the NPRM. In addition, FRA has taken very seriously the concerns and views expressed by State and local officials as expressed in written comments, as well as testimony provided at the April 15, 2005 public conference, on the appropriate excess risk estimate that should be applied to public highway-rail grade crossings along the FEC line.

FRA received comments and written testimony on the appropriate excess risk estimate that should be applied to public highway-rail grade crossings along the FEC line from the Broward County Metropolitan Planning Organization, the City of Hollywood, Florida, the City of Palm Beach Gardens, Florida, and FDOT. While local jurisdictions expressed interest in establishing Federal quiet zones along the FEC line, the desire to balance quality of life concerns with the need to maintain the current level of safety provided by routine sounding of the locomotive horn, especially within densely populated areas, was also raised. As for the specific issue of the appropriate excess risk estimate that should be applied to public highway-rail grade crossings along the FEC line, FDOT urged FRA to apply the nationwide excess risk estimate of 66.8 percent to these crossings. FDOT also took issue with FRA's prior analysis on the effect of nighttime whistle bans on accident rates at public highway-rail grade crossings along the FEC line, which indicated a 195-percent increase in the accident rate at these crossings after nighttime whistle bans were imposed. An explanation of FRA's response to these concerns is provided in the **SUPPLEMENTARY INFORMATION** section of the preamble to this final rule.

Under 49 U.S.C. 20153, the Department was required to issue rules requiring locomotive horns to be sounded at every public highway-rail grade crossing. The statute also makes clear that the Federal government must take a leading role in establishing the framework for providing exceptions to the requirement that horns sound at every public highway-rail grade crossing. Through issuance of FRA's final rule on the Use of Locomotive

Horns at Highway-Rail Grade Crossings on August 17, 2006 (71 FR 47614), FRA established a nationwide framework for the establishment of Federal quiet zones within which routine locomotive horn sounding practices at grade crossings can be restricted and/or prohibited. However, FRA's final rule on the Use of Locomotive Horns at Highway-Rail Grade Crossings did not apply to highway-rail grade crossings along the FEC line. Through issuance of this final rule, governmental jurisdictions within the State of Florida will be permitted to establish Federal quiet zones that include grade crossings located along the FEC line, pursuant to the procedures set forth in FRA's final rule on the Use of Locomotive Horns at Highway-Rail Grade Crossings.

Due to the voluntary nature of quiet zone establishment, any direct compliance costs that will be borne by State and local governments will be optional in nature. Accordingly, FRA has determined that this final rule will not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Compliance With the Unfunded Mandates Reform Act of 1995

Pursuant to Section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1531), each Federal agency ''shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law).'' Section 202 of the Act (2 U.S.C. 1532) further requires that ''before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $141,300,000 or more (adjusted annually for inflation) in any 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement'' detailing the effect on State, local, and tribal governments and the private sector.

This final rule will not result in the expenditure of more than $141,300,000 (adjusted annually for inflation) by the public sector in any one year, and thus preparation of such a statement is not required.

G. Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' 66 FR 28355 (May 22, 2001). Under the Executive Order, a ''significant energy action'' is defined as any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking that: (1)(i) Is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This final rule has been evaluated in accordance with Executive Order 13211. FRA has determined that this final rule, which is not a significant regulatory action under Executive Order 12866, will not have a significant adverse effect on the supply, distribution, or use of energy. Consequently, this regulatory action is not a ''significant energy action'' within the meaning of Executive Order 13211.

H. Privacy Act Statement

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document), if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *www.regulations.gov*.

List of Subjects in 49 CFR Part 222

Administrative practice and procedure, Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Rule

■ In consideration of the foregoing, FRA is amending part 222 of chapter II, subtitle B of title 49, Code of Federal Regulations, as follows:

PART 222—[AMENDED]

■ 1. The authority citation for part 222 continues to read as follows:

Authority: 28 U.S.C. 2461, note; 49 U.S.C. 20103, 20107, 20153, 21301, 21304; and 49 CFR 1.49.

Appendix G to Part 222 [Redesignated as Appendix H]

■ 2. Appendix G to Part 222 is redesignated as Appendix H to Part 222.

§ 222.11 [Amended]

■ 3. Section 222.11 is amended by removing the reference ''Appendix G to this part'' and by adding the reference ''Appendix H to this part'' in its place.

■ 4. A new Appendix G to Part 222 is added to read as follows:

Appendix G to Part 222—Excess Risk Estimates for Public Highway-Rail Grade Crossings

BAN EFFECTS/TRAIN HORN EFFECTIVENESS

[Summary table]

Warning type	Excess risk estimate
Nation (Except Florida East Coast Railway and Chicago Region Crossings)	
Passive	74.9.
Flashers only	30.9.
Flashers with gates	66.8.
Florida East Coast Railway Crossings	
Flashers with gates	90.9.
Chicago Region Crossings	
Passive	To be determined.
Flashers only	To be determined.
Flashers with gates	To be determined.

Note One: The warning type column reflects primary warning device types. FRA is aware that a variety of arrangements are in place at individual crossings.

Note Two: The ''excess risk estimate'' is a figure that represents the amount by which collision frequency has been estimated to increase when routine locomotive horn sounding is restricted at public highway-rail grade crossings.

Issued in Washington, DC, on August 28, 2009.

Karen J. Rae,

Deputy Administrator, Federal Railroad Administration.

[FR Doc. E9–21380 Filed 9–8–09; 8:45 am]

BILLING CODE 4910–06–P

Proposed Rules

Federal Register
Vol. 74, No. 173
Wednesday, September 9, 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–2009–0502; Directorate Identifier 2009–NE–02–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company (GE) CJ610 Series Turbojet Engines and CF700 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for GE CJ610 series turbojet engines and CF700 turbofan engines with AFT Technologies combustion liners, part number (P/N) AFT–5016T30G02. This proposed AD would require removing from service, AFT Technologies combustion liners, P/N AFT–5016T30G02. This proposed AD results from a report of an AFT Technologies combustion liner that released a large section of the inner combustion liner and reports of six combustion liners with premature cracks. We are proposing this AD to prevent premature cracks in the combustion liner, which could release pieces of the inner combustion liner. A release of pieces of the inner combustion liner could cause an uncontained failure of the engine turbine and damage to the airplane.

DATES: We must receive any comments on this proposed AD by November 9, 2009.

ADDRESSES: Use one of the following addresses to comment on this proposed AD.

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

FOR FURTHER INFORMATION CONTACT: Norman Perenson, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine & Propeller Directorate, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; *e-mail: norman.perenson@faa.gov*; telephone (516) 228–7337; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2009–0502; Directorate Identifier 2009–NE–02–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the AD Docket

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

Discussion

We have received a report of a large section of a combustion liner breaking free that caused damage to the turbine and excessive engine vibration. Also, we have received six reports of premature combustion liner cracking, determined by borescope inspection and precautionary removal of the combustion liners by the repair facility. Excessive cracking of the combustion liner could result in liberation of combustion liner pieces and damage to the turbine. The PMA holder has not been able to determine the cause of the premature combustion liner failure. Without a prohibition against installing a new or serviceable AFT Technologies combustion liner in the field and at AFT, there will be nothing to prevent a large piece of the combustion liner from releasing and damaging the turbine. This condition, if not corrected, could result in an uncontained failure of the engine turbine and damage to the airplane.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. We are proposing this AD, which would require replacing combustion liners, P/N AFT–5016T30G02:

- Before they accumulate 200 hours-since-new (HSN) or 300 cycles-since-new (CSN), or
- Within 15 hours-in-service or 10 cycles-in-service if the combustion liner has already exceeded 200 HSN or 300 CSN.

Costs of Compliance

We estimate that this proposed AD would affect 13 engines installed on airplanes of U.S. registry. We also estimate that it would take about 96 work-hours per engine to perform the proposed actions, and that the average labor rate is $80 per work-hour. Required parts would cost about $7,000 per engine. Based on these figures, we

estimate the total cost of the proposed AD to U.S. operators to be $190,840.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that the proposed AD:

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

General Electric Company (GE): Docket No. FAA–2009–0502; Directorate Identifier 2009–NE–02–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by November 9, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to GE CJ610 series turbojet and CF700 series turbofan engines with AFT Technologies combustion liner, part number (P/N) AFT–5016T30G02, installed. These engines are installed on, but not limited to, Learjet Inc. model 24 series and model 25 series airplanes, Dassault Aviation Fan Jet Falcon series airplanes, and Sabreliner Corporation NA–265–70 and NA–265–80 series airplanes.

Unsafe Condition

(d) This AD results from a report of an AFT Technologies combustion liner that released a large section of the inner combustion liner and reports of six combustion liners with premature cracks. We are proposing this AD to prevent premature cracks in the combustion liner, which could release pieces of the inner combustion liner. A release of pieces of the inner combustion liner could cause an uncontained failure of the engine turbine and damage to the airplane.

Compliance

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

Replacement of AFT Technologies Combustion Liner P/N AFT–5016T30G02

(f) For engines that have an AFT Technologies combustion liner, P/N AFT–5016T30G02, with fewer than 200 hours-since-new (HSN) or 300 cycles-since-new (CSN), remove the AFT Technologies combustion liner, P/N AFT–5016T30G02, before exceeding 200 HSN or 300 CSN, whichever occurs first.

(g) For engines that have an AFT Technologies combustion liner, P/N AFT–5016T30G02, with 200 HSN or more or 300 CSN or more, remove the AFT Technologies combustion liner, P/N AFT–5016T30G02, within 15 hours-in-service or 10 cycles-in-service, after the effective date of this AD, whichever occurs first.

(h) After the effective date of this AD, don't install any AFT Technologies combustion liner, P/N AFT–5016T30G02, in any engine.

Alternative Methods of Compliance

(i) The Manager, New York Aircraft Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(j) Contact Norman Perenson, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine & Propeller Directorate, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; *e-mail: norman.perenson@faa.gov*; telephone (516) 228–7337; fax (516) 794–5531, for more information about this AD.

Issued in Burlington, Massachusetts, on September 2, 2009.

Peter A. White,

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

[FR Doc. E9–21629 Filed 9–8–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1301

[Docket no. DEA–321a]

RIN 1117–AB22

Identification of Institution-based Individual Practitioners

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Drug Enforcement Administration (DEA) is soliciting public comments on how best to standardize the specific internal code number associated with each individual practitioner permitted by the hospital or other institutional practitioner to administer, dispense, or prescribe controlled substances using that institution's DEA registration. DEA is taking this action in response to comments it received to its Notice of Proposed Rulemaking regarding electronic prescriptions for controlled substances.

DATES: Written comments must be postmarked and electronic comments must be submitted on or before November 9, 2009. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after Midnight Eastern Time on the last day of the comment period.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–321'' on all written and

electronic correspondence. Written comments being sent via regular or express mail should be sent to the Drug Enforcement Administration, *Attention:* DEA Federal Register Representative/ODL, 8701 Morrissette Drive, Springfield, VA 22152. Comments may be sent to DEA by sending an electronic message to *dea.diversion.policy@usdoj.gov*. Comments may also be sent electronically through *http://www.regulations.gov* using the electronic comment form provided on that site. An electronic copy of this document is also available at the *http://www.regulations.gov* Web site. DEA will accept attachments to electronic comments in Microsoft Word, WordPerfect, Adobe PDF, or Excel file formats only. DEA will not accept any file formats other than those specifically listed here.

Please note that DEA is requesting that electronic comments be submitted before midnight Eastern time on the day the comment period closes because *http://www.regulations.gov* terminates the public's ability to submit comments at midnight Eastern time on the day the comment period closes. Commenters in time zones other than Eastern Time may want to consider this so that their electronic comments are received. All comments sent via regular or express mail will be considered timely if postmarked on the day the comment period closes.

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

SUPPLEMENTARY INFORMATION:

Posting of Public Comments: Please note that all comments received are considered part of the public record and made available for public inspection online at *http://www.regulations.gov* and in the Drug Enforcement Administration's public docket. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place all the personal identifying information you do not want posted online or made available in the public docket in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted online or made available in the public docket.

Personal identifying information and confidential business information identified and located as set forth above will be redacted and the comment, in redacted form, will be posted online and placed in the Drug Enforcement Administration's public docket file. Please note that the Freedom of Information Act applies to all comments received. If you wish to inspect the agency's public docket file in person by appointment, please see the ''For Further Information'' paragraph.

DEA's Legal Authority

DEA implements and enforces the Comprehensive Drug Abuse Prevention and Control Act of 1970, often referred to as the Controlled Substances Act (CSA) and the Controlled Substances Import and Export Act (21 U.S.C. 801–971), (CSA), as amended. DEA publishes the implementing regulations for these statutes in Title 21 of the Code of Federal Regulations (CFR), Parts 1300 to end. These regulations are designed to ensure that there is a sufficient supply of controlled substances for medical, scientific, and other legitimate purposes and to deter the diversion of controlled substances to illegal purposes.

Controlled substances are drugs that have a potential for abuse and psychological and physical dependence; these include substances classified as opioids, stimulants, depressants, hallucinogens, anabolic steroids, and drugs that are immediate precursors of these classes of substances. DEA lists controlled substances in 21 CFR part 1308. The substances are divided into five schedules: Schedule I substances have a high potential for abuse and have no accepted medical use in treatment in the United States. These substances may only be used for research, chemical analysis, or manufacture of other drugs. Schedule II—V substances have an accepted medical use and also have a potential for abuse and psychological and physical dependence.

The CSA mandates that DEA establish a closed system of control for manufacturing, distribution, and dispensing of controlled substances. Any person who manufactures, distributes, dispenses, imports, exports, or conducts research or chemical analysis with controlled substances must register with DEA (unless exempt), keep track of all stocks of controlled substances, and maintain records to account for all controlled substances received, distributed, dispensed, or otherwise disposed of.

Background

The CSA requires that every person who dispenses controlled substances shall obtain from the Attorney General a registration (21 U.S.C. 822(a)(2)). Authority to issue such registrations has been delegated by the Attorney General to the Administrator of the Drug Enforcement Administration (28 CFR 0.100).

An individual practitioner who is an agent or employee of a hospital or other institution registered with DEA may use the DEA registration of that hospital or other institution to administer, dispense, or prescribe controlled substances in accordance with the regulations (21 CFR 1301.22(c)). Specifically:

> An individual practitioner who is an agent or employee of a hospital or other institution may, when acting in the normal course of business or employment, administer, dispense, or prescribe controlled substances under the registration of the hospital or other institution which is registered in lieu of being registered him/herself, provided that:
>
> (1) Such dispensing, administering or prescribing is done in the usual course of his/her professional practice;
>
> (2) Such individual practitioner is authorized or permitted to do so by the jurisdiction in which he/she is practicing;
>
> (3) The hospital or other institution by whom he/she is employed has verified that the individual practitioner is so permitted to dispense, administer, or prescribe drugs within the jurisdiction;
>
> (4) Such individual practitioner is acting only within the scope of his/her employment in the hospital or institution;
>
> (5) The hospital or other institution authorizes the individual practitioner to administer, dispense or prescribe under the hospital registration and designates a specific internal code number for each individual practitioner so authorized. The code number shall consist of numbers, letters, or a combination thereof and shall be a suffix to the institution's DEA registration number, preceded by a hyphen (e.g., APO123456–10 or APO123456–A12); and
>
> (6) A current list of internal codes and the corresponding individual practitioners is kept by the hospital or other institution and

is made available at all times to other registrants and law enforcement agencies upon request for the purpose of verifying the authority of the prescribing individual practitioner. (21 CFR 1301.22(c))

Notice of Proposed Rulemaking Regarding Electronic Prescriptions for Controlled Substances

On June 27, 2008, DEA published a Notice of Proposed Rulemaking ''Electronic Prescriptions for Controlled Substances'' [Docket No. DEA–218, RIN 1117–AA61] (73 FR 36722). In that rule, DEA proposed that pharmacy applications receiving electronic prescriptions for controlled substances be capable of reading and retaining the full DEA registration number, including any extensions, or other identification numbers used under 21 CFR 1306.05(c). DEA further proposed that the full number including extensions must be retained in the prescription record. DEA further proposed that the pharmacy application must verify that the practitioner's DEA registration was valid at the time the prescription was signed. DEA indicated the pharmacy application may do this by checking the DEA CSA database or by having another entity check the DEA CSA database during transmission and indicate on the record that the check has occurred and the registration is valid. Finally, DEA proposed that the pharmacy application must reject prescriptions that were signed by practitioners without valid DEA registrations.

Comments received. DEA received numerous comments to its Notice of Proposed Rulemaking regarding this issue. Approximately twenty commenters representing State licensing boards, pharmacy and pharmacist organizations, chain drug stores, and electronic prescription and electronic pharmacy application vendors commented regarding this issue. One commenter, an organization representing health system pharmacists, believed that whatever system is used for extensions, the system must allow pharmacies to validate the original DEA number and determine whether the DEA number belongs to a facility for which extensions are permissible. A standards development organization for electronic prescription applications asked DEA to propose an industry solution to extensions, such as a standard length. It noted that the same problem exists for paper prescriptions.

A commenter representing grocery stores with pharmacies stated that DEA is placing the pharmacy in an untenable situation. The pharmacy would be expected to check and store a number on DEA's behalf for which there is no standard and over which DEA exerts no jurisdiction, as DEA does not specify criteria regarding the format or content of the suffix data for each individual practitioner using the institutional practitioner's registration. The commenter noted that the health-system or hospital choosing to employ a suffix system is tasked with the implementation and tracking of that process. The commenter recommended that DEA require the validity of the health-system DEA number be verified and that a health-system's use of a suffix system be guided by DEA directly at that user's facility.

Various State and national pharmacy organizations, an association representing chain drug stores, several State boards of pharmacy, several chain drug stores, and several pharmacy system providers all stated that DEA should standardize extensions and make it clear that pharmacies are not responsible for checking the validity of the extensions.

In response to the comments received, DEA is considering how best to standardize the internal code numbers assigned by institutional practitioners to the individual practitioners they permit to use their registration to administer, dispense, and prescribe controlled substances. DEA believes such standardization would benefit the overall dispensing of controlled substances by bringing a level of uniformity to such extensions. As commenters noted, this standardization is essential for DEA to require pharmacy systems to retain this information.

DEA recognizes, however, that there are many institutional practitioners employing internal code number systems. There has never been standardization regarding this number, and DEA believes it extremely likely that institutional practitioner registrants have established a variety of internal code number systems. Therefore, to address this issue, DEA is soliciting information from the regulated industry and other interested members of the public regarding current methods being used and how best to implement industry standardization in this area. Specifically, DEA seeks the following information:

- Information regarding formats used by institutional practitioners when establishing internal code numbers for individual practitioners permitted to use the institution's registration number;
- Estimates of the number of individual practitioners using internal code numbers for identification purposes;
- Estimates of the number of individual practitioners using internal code numbers for identification purposes in a particular institutional practitioner;
- Estimates of costs to institutional practitioners if code numbers for individual practitioners were to be standardized and what changes would be associated with those costs;
- Formats pharmacy applications could accommodate or would prefer, recognizing that pharmacy applications may need to be reprogrammed to accept this information;
- Estimates of the costs to pharmacies and/or pharmacy application providers for such reprogramming;
- Comments regarding whether pharmacies have had difficulty obtaining information from institutional practitioners regarding individual practitioners' internal code numbers and, if so, any proposed solutions.

Commenters wishing to address the above topics or provide other information should see the ''Dates,'' ''Addresses,'' and ''Posting of public comments'' sections above for information regarding public comment procedures.

Regulatory Certifications

This action is an Advance Notice of Proposed Rulemaking (ANPRM). Accordingly, the requirement of Executive Order 12866 to assess the costs and benefits of this action does not apply. Rather, among the purposes DEA has in publishing this ANPRM is to seek information from the public regarding the standardization of internal code numbers used by institutional practitioners to identify individual practitioners who use the institution's DEA registration to administer, dispense, or prescribe controlled substances. Similarly, the requirements of section 603 of the Regulatory Flexibility Act do not apply to this action since, at this stage, it is an ANPRM and not a ''rule'' as defined in section 601 of the Regulatory Flexibility Act. Following review of the comments received to this ANPRM, if DEA promulgates a Notice or Notices of Proposed Rulemaking regarding this issue, DEA will conduct all analyses required by the Regulatory Flexibility Act, Executive Order 12866, and any other statutes or Executive Orders relevant to those rules and in effect at the time of promulgation.

Dated: August 28, 2009.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. E9–21698 Filed 9–8–09; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF EDUCATION

34 CFR Chapter VI

Office of Postsecondary Education; Notice of Negotiated Rulemaking for Programs Authorized Under Title IV of the Higher Education Act of 1965, as Amended

AGENCY: Department of Education.

ACTION: Notice of establishment of negotiated rulemaking committees.

SUMMARY: We announce our intention to establish two negotiated rulemaking committees to prepare proposed regulations under Title IV of the Higher Education Act of 1965, as amended (HEA). Each committee will include representatives of organizations or groups with interests that are significantly affected by the subject matter of the proposed regulations. We request nominations for individual negotiators who represent key stakeholder constituencies that are involved in the student financial assistance programs authorized under Title IV of the HEA to serve on these committees.

DATES: We must receive your nominations for negotiators to serve on the committees on or before September 25, 2009.

ADDRESSES: Please send your nominations for negotiators to Patty Chase, U.S. Department of Education, 1990 K Street, NW., room 8034, Washington, DC 20006, or by fax at (202) 502–7874. You may also e-mail your nominations to *Patty.Chase@ed.gov*. Nominees will be notified whether or not they have been selected as negotiators, as soon as the Department's review process is completed.

FOR FURTHER INFORMATION CONTACT: For information about the content of this notice, including information about the negotiated rulemaking process or the nomination submission process contact: Wendy Macias, U.S. Department of Education, 1990 K Street, NW., room 8017, Washington, DC 20006. Telephone: (202) 502–7526. You may also e-mail your questions about the nomination submission process to: *Wendy.Macias@ed.gov*.

Note: For general information about the negotiated rulemaking process, see *The Negotiated Rulemaking Process for Title IV Regulations, Frequently Asked Questions* at *http://www.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html*.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or computer diskette) by contacting the contact person under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: On May 26, 2009, we published a notice in the **Federal Register** (74 FR 24728) announcing our intent to establish negotiated rulemaking committees to develop proposed regulations (1) governing foreign schools, including the implementation of the changes made to the HEA by the Higher Education Opportunity Act of 2008 (HEOA), Public Law 110–315, that affect foreign schools; and (2) to maintain or improve program integrity in the Title IV, HEA programs. We announced our intent to develop these proposed regulations by following the negotiated rulemaking procedures in section 492 of the HEA. The notice also announced a series of three regional hearings at which interested parties could comment on the topics suggested by the Department, and suggest additional topics for consideration for action by the negotiating committees. We invited parties to comment and submit topics for consideration in writing, as well. We heard testimony and received written comments from approximately 290 individuals. Transcripts from the hearings and copies of the written comments can be found at *http://www.ed.gov/policy/highered/reg/hearulemaking/2009/negreg-summerfall.html*.

Regulatory Issues: After consideration of the information received at the regional hearings and in writing, we have decided to establish the following two negotiating committees:

- Team I—Program Integrity Issues
- Team II—Foreign School Issues

We received many comments suggesting that we negotiate issues related to the student loan programs authorized under Title IV of the HEA. As we anticipate the need to convene a negotiated rulemaking committee following the completion of pending legislative action related to student loans, we will not be including student loan issues on the agenda at this time. Many of those who testified and those who provided written comments made the case for changes to bankruptcy rules as they relate to student loans; some also called for changes in statutes of limitations and loan refinancing rules. While those issues are important, addressing them would require action by Congress.

We also received comments suggesting revisions to the institutional financial responsibility regulations for Title IV, HEA institutional eligibility. We agree that this is an area where changes may be beneficial. However, significant analysis must be done by the Department before we can bring this issue to a committee for negotiation. We will be beginning this process in the near future. More information about the public aspects of this process will be forthcoming on the Department's Web site.

We list the topics each committee is likely to address during this round of negotiations elsewhere in this notice under *Committee Topics*.

We intend to select negotiators for the committees that represent the interests significantly affected by the topics proposed for negotiations. In so doing, we will follow the requirement in section 492(b)(1) of the HEA that the individuals selected must have demonstrated expertise or experience in the relevant subjects under negotiation. We will also select individual negotiators who reflect the diversity among program participants, in accordance with section 492(b)(1) of the HEA. Our goal is to establish committees that will allow significantly affected parties to be represented while keeping the committee size manageable.

The committees may create subgroups on particular topics that would involve additional individuals who are not members of the committees. Individuals who are not selected as members of the committees will be able to attend the meetings, have access to the individuals representing their constituencies, and participate in informal working groups on various issues between the meetings. The committee meetings will be open to the public.

The Department has identified the following constituencies as having interests that are significantly affected by the topics proposed for negotiations. The Department plans to seat as negotiators individuals from organizations or groups representing each of these constituencies. The Department anticipates that individuals from organizations or groups representing each of these constituencies will participate as members of one or more committees as appropriate. These constituencies are:

- Students.

- Legal assistance organizations that represent students.
- Consumer advocacy organizations.
- Financial aid administrators at postsecondary institutions.
- Business officers and bursars at postsecondary institutions.
- Admissions officers at postsecondary institutions.
- Institutional third-party servicers who perform functions related to the Title IV programs (including collection agencies).
- State higher education executive officers.
- State Attorneys General and other appropriate State officials.
- Business and industry.
- Institutions of higher education eligible to receive Federal assistance under Title III, Parts A and B, and Title V of the HEA, which include Historically Black Colleges and Universities, Hispanic-Serving Institutions, American Indian Tribally Controlled Colleges and Universities, Alaska Native and Native Hawaiian-Serving Institutions, and other institutions with a substantial enrollment of needy students as defined in Title III of the HEA.
- Two-year public institutions of higher education.
- Four-year public institutions of higher education.
- Private, non-profit institutions of higher education.
- Private, for-profit institutions of higher education.
- Guaranty agencies and guaranty agency servicers (including collection agencies).
- Lenders, secondary markets, and loan servicers.
- Regional accrediting agencies.
- National accrediting agencies.
- Specialized accrediting agencies.
- State approval agencies.
- State student grant agencies.
- State agencies addressing secondary education.
- Private secondary schools.
- Home schools for secondary education.
- Foreign institutions.
- Governmental entities overseeing public foreign institutions.
- Clinical sites of foreign medical institutions located in the United States (for Team II—Foreign School Issues, Issues specific to foreign medical schools).
- State agencies that certify clinical sites of foreign medical institutions in the United States (for Team II—Foreign School Issues, Issues specific to foreign medical schools).

The negotiation of proposed regulations for issues specific to foreign medical schools on the Team II agenda requires some specific constituencies who are affected parties for purposes of these issues only.

For these issues, we will be selecting ''single-issue negotiators'' whose participation on the committee will be limited to the negotiation of only the issues specific to foreign medical schools. As previously noted, the committee may form subgroups for preliminary discussions of these, or other, issues to include individuals who are not members of the committee but who have expertise that would be helpful.

The goal of each committee is to develop proposed regulations that reflect a final consensus of the committee. Consensus means that there is no dissent by any member of the negotiating committee. An individual selected as a negotiator will be expected to represent the interests of their organization or group. If consensus is reached, all members of the organization or group represented by a negotiator are bound by the consensus and are prohibited from commenting negatively on the resulting proposed regulations. The Department will not consider any such negative comments that are submitted by members of such an organization or group.

Nominations should include:

- The name of the nominee, the organization or group the nominee represents, and a description of the interests that the nominee represents.
- Evidence of the nominee's expertise or experience in the subject, or subjects, to be negotiated.
- Evidence of support from individuals or groups of the constituency that the nominee will represent.
- The nominee's commitment that he or she will actively participate in good faith in the development of the proposed regulations.
- The nominee's contact information, including address, phone number, fax number, and e-mail address.

For a better understanding of the negotiated rulemaking process, nominees should review *The Negotiated Rulemaking Process for Title IV Regulations, Frequently Asked Questions* at *http://www.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html* prior to committing to serve as a negotiator.

Committee Topics

The topics the committees are likely to address are as follows:

Team I—Program Integrity Issues

- Satisfactory academic progress.
- Monitoring grade point averages.
- Incentive compensation.
- Gainful employment in a recognized occupation.
- State authorization as a component of institutional eligibility.
- Definition of a credit hour.
- Verification of information included on a Free Application for Federal Student Aid (FAFSA).
- Definition of a high school diploma for purposes of establishing eligibility to participate in Federal student aid programs.
- Misrepresentation of information provided to students and prospective students.
- Ability to benefit.
- Agreements between institutions of higher education.
- Retaking coursework.
- Term-based module programs.
- Institutions required to take attendance for purposes of the Return of Title IV Funds requirements.
- Timeliness and method of disbursement of Title IV funds.

Team II—Foreign School Issues

- United States Generally Accepted Accounting Principles (U.S. GAAP) financial statements (section 493(b) of the HEOA).
- Compliance audits (section 493(b) of the HEOA).
- Definition of a foreign school.
- Non-profit status for foreign schools.
- Public foreign schools and financial responsibility.
- Consolidation of select Title IV requirements on a countrywide basis.
- Deferments for eligible non-citizens.
- Non-degree programs.
- Issues specific to foreign medical schools:
  - New eligibility criteria for foreign medical schools (section 102(a)(1)(B) and (b) of the HEOA).
  - Clinical sites of foreign medical schools in other countries.
  - Basic science locations of foreign medical schools in other countries.
- Eligibility requirements for foreign veterinary schools.
- Eligibility requirements for foreign nursing schools (sections 102(a)(1)(A) and (D) of the HEOA).
- Foreign medical and veterinary schools certified separately from larger school.

These topics are tentative. Topics may be added or removed as the process continues.

Schedule for Negotiations

We anticipate that negotiations for these committees will begin at the end of October 2009, with each committee

meeting for three sessions of approximately five days at roughly monthly intervals. Meetings will start on a Monday at 1:00 and end on a Friday at noon. The committees will meet in the Washington, DC area. The dates and locations of these meetings will be posted on the Department's Web site at: *http://www.ed.gov/policy/highered/reg/hearulemaking/2009/negreg-summerfall.html*.

The schedule for these negotiations has been developed to ensure publication of the final regulations by the November 1, 2010 statutory deadline for publishing Title IV, HEA student financial assistance final regulations.

Electronic Access to This Document

You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF), on the Internet at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office toll free at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

Program Authority: 20 U.S.C. 1098a.

Delegation of Authority: The Secretary of Education has delegated authority to Daniel T. Madzelan, Director, Forecasting and Policy Analysis for the Office of Postsecondary Education, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

Dated: September 3, 2009.

Daniel T. Madzelan,

Director, Forecasting and Policy Analysis.

[FR Doc. E9–21695 Filed 9–8–09; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2008–0697; FRL–8948–9]

RIN 2060–AP08

Revisions to Test Method for Determining Stack Gas Velocity Taking Into Account Velocity Decay Near the Stack Walls

Correction

In proposed rule document E9–20395 beginning on page 42819 in the issue of Tuesday, August 25, 2009 make the following correction:

Appendix A–2 to Part 60 [Corrected]

On page 42819, in Appendix A–2 to Part 60, Equation 2H–1 is reprinted correctly to read as set forth below:

$$d_{rem} = r - \sqrt{\left(\frac{p-1}{p}\right)r^2 - rd_{last} + \frac{1}{2}d_{last}^2} \qquad \text{Eq. 2H-1}$$

[FR Doc. Z9–20395 Filed 9–8–09; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS-R4-ES-2009-0029
MO 9221050083-B2]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition to List the Eastern Population of the Gopher Tortoise (*Gopherus polyphemus*) as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90–day petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a 90–day finding on a petition to list the eastern population of the gopher tortoise (*Gopherus polyphemus*) as threatened under the Endangered Species Act of 1973, as amended (Act) and designate critical habitat. Herein, the Service refers to the eastern population of the gopher tortoise as the gopher tortoise in the eastern portion of its range. Following a review of the petition, we find that the petition presents substantial scientific or commercial information indicating that listing the gopher tortoise in the eastern portion of its range may be warranted. Therefore, with the publication of this notice, we are initiating a status review to determine if listing the gopher tortoise in the eastern portion of the range is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial data and other information regarding the status of and threats facing the gopher tortoise throughout all of its range.

DATES: We made the finding announced in this document on September 9, 2009. To allow us adequate time to conduct this review, we request that we receive information on or before November 9, 2009 to allow us time to review and consider the information in our status review.

ADDRESSES: You may submit information by one of the following methods:

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

• *U.S. mail or hand-delivery*: Public Comments Processing, Attn: FWS-R4-ES-2009-0029; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information received on *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: David L. Hankla, Field Supervisor, Jacksonville Ecological Services Field Office, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256, by telephone 904/731-3336, or by facsimile 904/731-3045. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Information Solicited

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information concerning the status of the gopher tortoise throughout all of its range. We request information from other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning the status

of the gopher tortoise throughout all of its range. We are seeking information regarding:

(1) The species' biology, range, and population trends, including:

(a) Habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy of the gopher tortoise throughout its entire range including the federally listed western portion of the gopher tortoise's range;

(c) Historical and current range including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species or its habitat.

(2) The factors that are the basis for making a listing determination for a species under section 4(a) of the Act (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of the species' 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 and threats to the species or its habitat.

(3) Information related to whether any portion of the range should be considered for listing as a distinct population segment or significant portion of the range.

If we determine that listing the gopher tortoise in the eastern portion of its range is warranted, it may be appropriate, at the same time, to propose critical habitat to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, with regard to areas within the geographical range currently occupied by the gopher tortoise range wide we also request data and information on what may constitute physical or biological features essential to the conservation of the species, where these features are currently found, and whether any of these features may require special management considerations or protection. In addition, we request data and information regarding whether there are areas outside the geographical area occupied by the species that are essential to the conservation of the species. Please provide specific comments and information as to what, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat meets the requirements of the Act. Include sufficient information with your submission (such as full references) to allow us to verify any scientific or commercial information you provide.

Submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is a threatened or endangered species must be made ''solely on the basis of the best scientific and commercial data available.'' Based on the status review, we will issue a 12–month finding on the petition, as provided in section 4(b)(3)(B) of the Act.

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES** section. If you submit information via *http://www.regulations.gov*, your entire submission—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov*.

Information and materials we received and used in preparing this 90–day finding will be available for you to review at *http://www.regulations.gov*or you may make an appointment during normal business hours at the U.S. Fish and Wildlife Service, Jacksonville Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition, and publish our notice of the finding promptly in the **Federal Register**.

Our standard for ''substantial scientific or commercial information'' within the Code of Federal Regulations (CFR) with regard to a 90–day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to promptly commence a status review of the species which we subsequently summarize in our 12–month finding.

On January 18, 2006, we received a petition, dated January 13, 2006, from Save Our Big Scrub, Inc. and Wild South requesting that we list the gopher tortoise (*Gopherus polyphemus*) in the eastern portion of its range as a threatened species under the Act and we designate critical habitat. The petition clearly identified itself as such and included the requisite identification information for the petitioners, as required in 50 CFR 424.14(a). Action on this petition was precluded by court orders and settlement agreements for other listing and critical habitat actions that required all of our listing and critical habitat funding for fiscal year 2006. On September 26, 2006, we received a 60–day notice of intent to sue from Save Our Big Scrub, Inc. and Wild South for failing to make a timely 90–day finding. This notice constitutes our 90–day finding on the petition to list the gopher tortoise in the eastern portion of its range.

Previous Federal Action(s)

On July 7, 1987 (52 FR 25376), the Service determined the western population of the gopher tortoise to be a threatened species. This population occurs from the Tombigbee and Mobile Rivers in Alabama west to southeastern Louisiana. To date, no Federal actions have been taken with regard to the gopher tortoise in the eastern portion of its range.

Species Information

The gopher tortoise was first described in 1802 by F.M. Daudin. It is the only tortoise indigenous to the southeastern United States (U.S. Fish and Wildlife Service 1990, p. 1). The gopher tortoise is a moderate-sized, terrestrial turtle, averaging 23 to 28 centimeters (cm) (9 to 11 inches (in)) in length. The species is identified by its stumpy, elephantine hind feet and flattened, shovel-like forelimbs. The shell is oblong and generally tan, brown, or gray in coloration.

The gopher tortoise typically inhabits relatively well-drained, sandy soils. This species is generally associated with longleaf pine (*Pinus palustris*)– xeric oak (*Quercus* spp.) sandhills but also occurs in scrub, xeric hammock, pine flatwoods, dry prairie, coastal grasslands and dunes, mixed hardwood-

pine communities, and a variety of disturbed habitats (Auffenberg and Franz 1982, p. 98; Kushlan and Mazzotti 1984, pp. 231-232; Diemer 1987, pp. 73-74; Diemer 1992; pp. 163-164; Breininger *et al.* 1994, pp. 60 and 63). Gopher tortoises excavate burrows that average 0.91 to 15.8 meters (m) (3 to 52 feet (ft)) in length and 2.7 to 7.0 m (9 to 23 ft) in depth (Ashton and Ashton 2004, p. 15). These burrows, which provide protection from temperature extremes, desiccation, and predators, serve as refuges for approximately 360 other species (Cox *et al.* 1987, p. 11; Jackson and Milstrey 1989, pp. 86-87; Witz *et al.* 1991, p. 152).

The gopher tortoise is slow to reach sexual maturity, has low fecundity, and has a long life span (Cox *et al.* 1987, p. 17). Females reach sexual maturity at 9 to 21 years of age, depending on local resource abundance and latitude; males mature at a slightly younger age (Mushinsky *et al.* 1994, p. 352; Aresco and Guyer 1999, pp. 503-504). The breeding season is generally April to November. Nests are constructed (often in burrow mounds) from mid-May to mid-June, and only one clutch is produced annually (Iverson 1980, p. 356). Incubation periods range from 80 to 90 days in northern Florida (Iverson 1980, p. 356) to 110 days in South Carolina, the northern limit of the gopher tortoise's range (Wright 1982, p. 68). Predation of nests and hatchlings is a major factor affecting population dynamics (Diemer 1994, pp. 134-135; Alford 1980, p. 180; Butler and Sowell 1996, pp. 455-457).

Gopher tortoises feed primarily on broadleaf grasses, wiregrass (*Aristida stricta* var. *beyrichiana*), asters, peas and beans, and fruit, but they are known to eat more than 300 species of plants (Ashton and Ashton 2004, pp. 33-35). Home range size varies with habitat type, season, and sex of the tortoise; moreover, considerable individual variation has been found (Diemer 1992, pp. 160-162). Reported annual average home ranges for males have varied from 0.5 to 1.9 hectares (ha) (1.2 to 4.7 acres (ac)). Females generally have smaller home ranges, with reported averages ranging from 0.1 to 0.6 ha (0.2 to 1.6 ac) (McRae *et al.* 1981, pp. 174-176; Diemer 1992, pp. 160-161; Smith *et al.* 1997, pp. 359-361). Home range size is inversely correlated with the amount of herbaceous ground cover and the range may vary depending on habitat quality (Diemer 1992, p. 163). Multiple burrows are typically used (McRae *et al.* 1981, p. 165; Diemer 1992, p. 162), which complicates estimates of population size (McCoy and Mushinsky 1992, p. 402).

The gopher tortoise is endemic to the United States and occurs in the southeastern Coastal Plain from southeastern South Carolina to extreme southeastern Louisiana (Auffenberg and Franz 1982, p. 95). The eastern portion of the gopher tortoise's range includes Alabama (east of the Tombigbee and Mobile Rivers), Florida, Georgia, and South Carolina. Of the eastern portion of the tortoise's range, the northernmost part is in South Carolina; in that State, four disjunct populations remain in Jasper County, a few tortoises occur in southern Hampton County (Wright 1982, p. 14), and tortoises have recently been documented in Aiken County (Clark 2001, p. 191). In Georgia, the largest number of tortoises is found along the western Fall Line Sand Hills and the central Tifton Uplands. Along the Coastal Plain of Georgia, most of the tortoises are scattered due to urbanization along the coast, which further isolates tortoises from one another (Landers and Garner 1981, pp. 46-47). Tortoises found farther inland in rural areas also tend to be scattered due to lack of management, such as prescribed burning. The State of Florida contains the largest portion of the total global range of the species. Gopher tortoises remain widely distributed in Florida, occurring in parts of all 67 counties; however, their current range in south Florida is restricted due to unsuitable habitat and increased urbanization (Diemer 1987, p. 73). Tortoises occur as far south as Cape Sable and on islands off the east and west coasts of Florida (Auffenberg and Franz 1982, p. 99; Kushlan and Mazzotti 1984, p. 231).

Applicability of the Act to the Eastern Portion of its Range

Section 3 of the Act defines ''species'' to include ''any subspecies of fish or wildlife or plants, and any distinct population segment [DPS] of any species of vertebrate fish or wildlife which interbreeds when mature,'' and an ''endangered species'' as ''any species which is in danger of extinction throughout all or a significant portion of its range.'' (A ''threatened species'' is ''any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range).'' As a result, we make listing decisions on entire species or subspecies which may be threatened or endangered throughout all or a significant portion or their range, and on DPSs of vertebrate animals (see our Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act (61 FR 4722, February 7, 1996) for information on how we define and identify DPSs). If we recognize a population as a DPS, it is listed if we find it is threatened or endangered throughout all or a significant portion of its range.

If we find the gopher tortoise is threatened in the eastern portion of the range, it may be appropriate to list the entire species as threatened (because it is already listed as threatened in the western portion of the range). Alternatively, we may determine that a DPS of the gopher tortoise inhabits the eastern portion of the range, and we may make a listing determination for that DPS.

The petition and information in our files suggest that the eastern portion of the gopher tortoise's range contains the majority of the total global range of the species. This indicates that the eastern portion of the range may be a significant portion of the range of the species, or, if discrete from the remainder of the range, a distinct population segment of the species. See the Service's Policy Regarding the Recognition of Distinct Vertebrate Population Segments under the Endangered Species Act (61 FR 4722, February 7, 1996).

Therefore, we find that the petition presents substantial information that the eastern portion of the range of the gopher tortoise may, if threatened or endangered, be an appropriate subject of a listing rule, and that a range-wide review of its status is warranted.

Evaluation of Information for this Finding

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR 424 set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

In making this 90–day finding, we evaluated whether information regarding the gopher tortoise in the eastern portion of its range, as presented in the petition and other information available in our files, is substantial, thereby indicating that the petitioned action may be warranted. Our

evaluation of this information is presented below.

A. The Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range

The petition states that within the eastern portion of the range of the gopher tortoise, land for urban uses (urban development) has increased by approximately 614 percent, which is higher than in areas where the federally listed western population occurs (483 percent increase) (Vesterby and Krupa 1997, pp. 44-45). Based on the document cited in the petition, it is unclear how the petitioners reach this conclusion. Although the information has shown an increase in urban use throughout the southeastern United States, it does not show that this conversion to urban use has occurred in areas occupied by gopher tortoises. However, information in our files indicates that conversion of natural pine stands for urban uses can and does have detrimental effects, caused by loss of habitat, on populations of gopher tortoises. Based on GIS analysis of 2003 Landsat imagery, an estimated 688,963 ha (1,701,736 ac) of former tortoise habitat in Florida are now urban, which represents a 15.7 percent loss of historical tortoise habitat to urbanization (FWC 2006, p. 8).

The petition also notes that between 1952 and 1999, natural pine habitat declined by more than 61 percent within the eastern portion of the gopher tortoise's range. The 61 percent decline is a greater decline than the 41 percent in areas occupied by the federally listed western population (Conner and Hartsell 2002, pp. 374-375). Furthermore, the petition states that the amount of land devoted to pine plantations has increased from 567,000 ha (1.4 million ac) in 1952 to nearly 8.91 million ha (22 million ac) in 1999, an increase of more than 1,400 percent (Conner and Hartsell 2002, pp. 373-376). Information in our files indicates that loss of natural pine stands converted to pine plantations has an adverse effect on gopher tortoise populations (Auffenberg and Franz 1982, p. 102). Pine plantations are typically planted in dense rows of pine trees. The resulting open, grassy habitat may encourage colonization for several years. Such colonies are short-lived, however, for within l0 to l5 years, the pines shade out the grasses, and the tortoises either die or scatter (Auffenberg and Franz 1982, p. 111).

Natural pine stands tend to have an open canopy that allows for greater light intensity at ground level and a diversity of grasses and forbs that the tortoises eat. Pine plantations tend to have a dense overstory, which results in a sparse surface flora and lack of foraging vegetation for tortoises (Auffenberg and Franz 1982, p. 102). Conversion to pine plantations results in poor habitat quality and smaller populations of gopher tortoises. Based on the information provided in the petition and information in our files, there is a trend showing an increase in planted pine and a decrease in natural pine that could be detrimental to gopher tortoises throughout the eastern portion of their range.

Included in the petition is a quote from the Florida Fish and Wildlife Conservation Commission (FWC) that, ''it may be inevitable that gopher tortoises will be largely eliminated from private lands in Florida within the next three generations, which would represent a 60-65 percent decline in tortoise habitat. We anticipate similar losses in the other range states,'' (FWC 2001, p. 5). Kautz (1998, p. 184) projects that natural pine forests could disappear from all commercial forest lands in Florida by 2021. Kautz (1998, p. 182) also estimates that between 1970 and 1995, natural pine forests in Florida declined from 2.26 million ha (5.58 million ac) to 1.14 million ha (2.82 million ac), a 49.4 percent loss in approximately one tortoise generation (31 years). In other States where gopher tortoises occur, human population growth has not increased as it has in Florida over the last 50 years, but prospects for loss of natural pine forests in these other States are no less bleak (FWC 2001, p. 5).

The loss of natural pinelands throughout the South is further supported by Siry (2002, p. 335), who stated that in 2000, natural pine made up 11 percent of the forest industry's land holdings throughout the southern United States; but by 2020, only a predicted 2 percent of the forest industry's land holdings will be in natural pine. Siry (2002, p. 335) also showed that in 2000, natural pine consisted of 14 percent of nonindustrial private forest holdings, whereas by 2020, only 10 percent is predicted to be left in natural pine. This information, which was cited in the petition, is supported by information found in our files. FWC's 2006 update to the species' 2001 status report further indicates a serious decline in the amount of gopher tortoise habitat in the State of Florida.

The petition also contends that the increase in habitat destruction and degradation of upland habitats has resulted in fragmentation of large tortoise populations and forced individuals into unsuitable habitats and onto highways (Wilson 1997, p. 18). The petitioners' rationale is that as the quality of isolated patches of gopher tortoise habitat is degraded, mature adults may be forced to abandon a site in search of better quality habitat and food. This could force the tortoises into urban areas where food and habitat are scarce. According to FWC (2001, p. 4), gopher tortoises left areas that had been recently converted to pine plantations. Dense pines shade out understory forage plants causing the tortoises to move to peripheral areas to find food.

These peripheral areas are often road shoulders, which may give the impression that population numbers are high, even though the adjacent pine plantation is largely unoccupied (FWC 2001, p. 4). This claim is supported by information in our files. Roads fragment gopher tortoise habitat and populations, and proper management of these small habitat fragments (e.g., prescribed burning, invasive species control) becomes complicated (FWC 2006, p. 10). Highway mortality of gopher tortoises is probably greatest in urban areas with heavy vehicular traffic and a relatively high number of displaced tortoises (Mushinsky *et al.* 2006, p. 362).

The Service's 1990 Gopher Tortoise Recovery Plan for the western portion of the gopher tortoise's range discusses the conversion of natural pine habitat to other uses and describes similar effects that are also occurring within the eastern portion of the gopher tortoise's range (U.S. Fish and Wildlife Service 1990, p. 9). Since this recovery plan was written, other researchers have supplied evidence that fire suppression and the decline of prescribed fire in both natural pine forests and pine plantations have resulted in a substantial decline in gopher tortoise habitat (FWC 2006, p. 10). Auffenburg and Franz (1982, p. 106) reported that tortoise densities are highest in fire-adapted associations (sand pine-scrub oak and longleaf pine-oak) or early successional stages (beach scrub and old-field). In the absence of fire, each of these associations would eventually be replaced by predominantly evergreen hardwood communities, in which tortoises are generally less abundant (Auffenburg and Franz 1982, pp. 106-107).

In summary, we find that the information provided in the petition, as well as other information in our files, presents substantial scientific or commercial information indicating that the petitioned action may be warranted due to habitat destruction (especially from urbanization and the conversion of natural pine habitat to pine plantations)

and fire suppression in natural pine forests.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The petition states that harvesting of gopher tortoises is now prohibited by all States throughout its range; however, commercial hunters continue to illegally collect gopher tortoises for their meat (Puckett and Franz 2001, p. 6). The petitioners note that in Florida there has been a long history of human predation on tortoises, especially in the western Panhandle. For example, prior to the closure of tortoise harvest in the late 1980s, one community in Okaloosa County held an annual tortoise cookout (FWC 2006, p. 4). Auffenberg and Franz (1982, p. 103) found that tortoise populations in longleaf pine-turkey oak (*Quercus laevis)* habitat in the Florida Panhandle averaged only 20 percent of the density of populations in similar habitat in the peninsula of Florida.

Although the petition provides some information about human predation on tortoises in the Florida Panhandle, it does not present information on human predation in other areas of Florida or elsewhere in the eastern portion of the range. However, information in our files indicates that the tortoise was used for food throughout its range during the 1930s (''Great Depression'') and as late as the 1980s in some parts of the range. Although this activity may have abated, the taking of adult gopher tortoises can result in long-term negative effects on populations. Since tortoises already have high juvenile and hatchling mortality, require a long time to reach sexual maturity, and have a low reproductive rate, populations can show substantial effects from the loss of reproducing adults.

The petition also provides information indicating that other human activities focused on other species negatively affect gopher tortoises. For example, although ''rattlesnake round-ups'' have decreased throughout the gopher tortoise's range, they are still occurring in South Georgia (Humane Society of the United States 2005, p. 1). Collection methods for these round-ups include pouring gasoline into snakes' hiding places, which include gopher tortoise burrows. The petitioners note that Florida has banned the use of gasoline to collect rattlesnakes from gopher tortoise burrows (Florida Administrative Code, 68A-4.001(2)) and has banned tortoise races (Florida Administrative Code, 68A-25.002(9) and (10)). However, these activities persist in other States such as Georgia and Alabama.

The petition also contends that past gopher tortoise harvesting during rattlesnake roundups would most likely explain why tortoises are absent from some seemingly appropriate habitat (Hermann 2002, p. 295). We have evidence in our files indicating this activity did occur, at least historically. As stated previously, some activities, although historical in nature, may have lasting effects on populations, but the magnitude of these effects is unknown at this time.

In summary, the petition provides information on the impacts of past and present commercial and recreational activities on tortoises. However, it is difficult to determine from either the information submitted with the petition or the information in our files the current and projected extent and magnitude of these impacts on the gopher tortoise throughout all or a significant portion of its eastern range. Therefore, we find that the petition does not present substantial information for this factor.

C. Disease or Predation

The petitioners provide information that the bacterial disease known as upper respiratory tract disease (URTD) has become more widespread among gopher tortoises (Seigel 2003, p. 138). This disease is highly contagious and is transmitted by close contact between tortoises, as during courtship or male combat (Mushinsky *et al.* 2006, p. 363). Symptoms of URTD can include swollen eyelids, nasal discharge, and severe respiratory distress (Seigel 2003, p. 139). The petition also includes information regarding the large-scale mortality of tortoises from URTD at several sites in Florida, including the unusually high mortality at the Kennedy Space Center between 1995 and 2000 (Seigel 2003, pp. 138-139). Data show that tortoises of both genders and all age classes at the Kennedy Space Center were equally vulnerable to URTD-related mortality and that an ''across the board'' decrease in tortoise numbers could be expected (Seigel 2003, p. 142). Although URTD can result in large-scale mortality of gopher tortoises, the petition does not provide information on the extent of this disease on the gopher tortoise in the eastern portion of its range. Information within our files indicates that URTD has the potential to influence survival and reproduction of individual tortoises, but definitive data are lacking (Brown *et al.* 2002, pp. 505-506); therefore, the current extent of the impact of this disease is difficult to determine within the eastern portion of the gopher tortoise's range.

The petition also includes information indicating that predators pose a significant threat to gopher tortoise population viability. The petition states that because of high nest loss to predators, a mature gopher tortoise may produce as few as one clutch every 10 years that actually survives. Predators destroy more than 80 percent of gopher tortoise nests (Puckett and Franz 2001, p. 5). In South Carolina, 17 of 24 (74 percent) nests were destroyed by predators (Wright 1982, p. 59). In Georgia, females are estimated to produce one clutch (approximately seven eggs per clutch in southern Georgia) annually; however, predators will destroy 87 percent of these clutches throughout that year (Landers and Garner 1981, p. 46). In northern Florida, gopher tortoises have been estimated to have a mortality rate of 94.2 percent during their first year of life (Alford 1980, p. 180).

Epperson and Heise (2003, pp. 320 and 322) showed in their study that survivorship of tortoise hatchlings was low with most (65 percent) killed within 30 days of hatching. Information in our files indicates that the most significant egg and hatchling predator appears to be the raccoon (*Procyon lotor*) (Landers *et al.* 1980, p. 358); however, a variety of mammals are reported predators of gopher tortoise, including gray foxes (*Urocyon cinereoargenteus*), striped skunks (*Mephitis mephitis*), opossums (*Didelphis virginiana*), armadillos (*Dasypus novemcinctus*) (Landers *et al.* 1980, p. 358), and dogs (*Canis domesticus*) (Causey and Cude 1978, pp. 94-95). Introduced nonnative fire ants (*Solenopsis saevissima* or *invicta*) are also reported as hatchling predators (Landers *et al.* 1980, p. 358; Lohoefener and Lohmeier 1984, p. 5).

Although disease and predation have resulted in the loss of gopher tortoises, the petition and information in our files do not provide sufficient information to show the extent to which these threats have affected or are expected to affect the gopher tortoise throughout all or a significant portion of its eastern range. Therefore, we find that the petition does not present substantial information for this factor. We will further review the role of disease and predation during our status review.

D. Inadequacy of Existing Regulatory Mechanisms

The petition asserts that although each State affords some protection to gopher tortoise in the eastern portion of its range, such State protections have been ineffective at preventing further declines. In Alabama, the tortoise is a State-protected nongame species; in

South Carolina, the species is listed as endangered; and in Georgia and Florida, the species is listed as threatened.

In Florida, permits are required to take gopher tortoises (Florida Administrative Code, 68A-25.002 (9) and (10)). The petition claims that since 1991, the permitting process used by the State of Florida has issued permits to ''entomb and kill'' an estimated 67,000 to 71,000 gopher tortoises for the construction of houses, strip malls, roads, and schools (Fleshler 2005, p. 1). However, the State of Florida's first action is to prevent direct harm to tortoises through its permitting process. According to information in our files, at the time the petition was received, the FWC had a draft 2006 Management Plan to protect suitable habitat and relocate tortoises to this habitat. The extent of the impacts from relocation, either positive or negative, on this species throughout the eastern portion of the range is currently unknown. We will evaluate this during the status review.

The information presented in the petition, as well as information in our files, does not present substantial information for this factor. Therefore, we have determined that the petition does not present substantial information that the gopher tortoise throughout all or a significant portion of its eastern range may be threatened due to the inadequacy of existing regulatory mechanisms. We will continue to evaluate this factor, including the long-term monitoring program of gopher tortoise translocation as described in the FWC draft 2006 Management Plan, during our status review of the gopher tortoise in the eastern portion of its range.

E. Other Natural or Manmade Factors Affecting the Species' Continued Existence

The petition states that the previously identified threats are accentuated by the length of time required for gopher tortoises to reach sexual maturity and their low reproductive rate. The petition further states that the Service used this claim as one of the justifications for listing the gopher tortoise in the western portion of its range as threatened in 1987 (52 FR 25376, July 7, 1987). The petitioners contend that this same rationale applies to the eastern portion of the range because the threats are similar to what the western portion of the range was facing at the time of listing. As described under the Species Information section above, female gopher tortoises do not reach sexual maturity until about 9 to 21 years of age; males mature at a slightly younger age (Cox *et al.* 1987, p. 17; Mushinsky *et al.* 1994, p. 352; Aresco and Guyer 1999, pp. 503-504). As described above, because of the natural life history parameters of the gopher tortoise, including low reproductive rate and delayed age to sexual maturity, the mortality experienced by other threats can be amplified within populations. Therefore, we find that the information provided in the petition, as well as information in our files, presents substantial information indicating that the petitioned action may be warranted under this factor due to the natural life history of gopher tortoises.

Finding

On the basis of our review and evaluation under section 4(b)(3)(A) of the Act, we find that the petition presents substantial scientific or commercial information that listing the gopher tortoise to include the eastern portion of its range may be warranted due to current and future threats under Factors A and E. Therefore, we are initiating a status review to determine whether listing the eastern population of the gopher tortoise is warranted. To ensure that the status review is comprehensive (in conjunction with the status review we are conducting under the Act's section 4(c)(2) of the listed western portion of the range), we are soliciting scientific and commercial data and other information regarding listing the gopher tortoise throughout all of its range. At the conclusion of the status review, we will issue a 12–month finding on the petition, announcing our determination of whether or not the petitioned action is warranted.

The ''substantial information'' standard for a 90–day finding differs from the Act's ''best scientific and commercial data'' standard that applies to a status review to determine whether a petitioned action is warranted. A 90–day finding does not constitute a status review under the Act. In a 12–month finding, we will determine whether a petitioned action is warranted after we have completed a thorough status review of the species, which is conducted following a substantial 90–day finding. Because the Act's standards for 90–day and 12–month findings are different, as described above, a substantial 90–day finding does not mean that the 12–month finding will result in a warranted finding.

References Cited

A complete list of all references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Jacksonville Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Author

The primary authors of this notice are the staff members of the Jacksonville Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 24, 2009.

Daniel M. Ashe,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. E9–21481 Filed 9–8–09; 8:45 am]

BILLING CODE 4310–55–S

Notices

Federal Register
Vol. 74, No. 173
Wednesday, September 9, 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

Submission for OMB Review; Comment Request

September 3, 2009.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: Specialty Crop Block Grant Program (SCBGP).

OMB Control Number: 0581–0239.

Summary of Collection: The Specialty Crops Competitiveness Act of 2004, (Pub. L. 108–465) (Act) authorized the Secretary of Agriculture to make grants to States (at the time, defined to mean the 50 States, the District of Columbia, and Commonwealth of Puerto Rico), for each of the fiscal years 2005 through 2009 to be used by State departments of agriculture solely to enhance the competitiveness of specialty crops. These grant funds were previously applied for and awarded to eligible State departments of agriculture under the Specialty Crop Block Grant Program (SCBGP). Therefore, State departments of agriculture can no longer apply for grants under the SCBGP.

Need and Use of the Information: The SCBGP is still in effect because grant periods can be up to three years in length and currently, State departments of agriculture are reporting on previously awarded grants. Data collected is the minimum information necessary to effectively carry out the program, and to fulfill the intent of Section 101 of the Act. The information collection requirements apply only to those State departments of agriculture who voluntarily participate in SCBGP. The information collected is needed to certify that grant participants are complying with applicable program regulations. The Agricultural Marketing Service is reviewing annual and final performance reports, grant amendments, and financial status reports for the SCBGP.

Description of Respondents: State Agricultural Departments.

Number of Respondents: 52.

Frequency of Responses: Reporting: Annually; Recordkeeping.

Total Burden Hours: 351.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E9–21758 Filed 9–8–09; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

September 3, 2009.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Research Service

Title: Electronic Mailing List Subscription Form—Nutrition and Food Safety.

OMB Control Number: 0518–0036.

Summary of Collection: The National Agricultural Library's Food and

Nutrition Center (FNIC) currently maintains several on-line ''discussion groups.'' This voluntary ''Electronic Mailing List Subscription Form'' gives individuals working in the area of nutrition and food safety an opportunity to participate in these groups. Data collected using this form will help FNIC determine a person's eligibility to participate in these discussion groups. The authority for the National Agricultural Library (NAL) to collect this information is contained in the CFR, Title 7, Volume 1, Part 2, and Subpart K, Sec. 2.65 (92).

Need and Use of the Information: FNIC will collect the name, email address, job title, employer, mailing address and telephone number in order to approve subscriptions for nutrition and food safety on-line discussion groups. Failure to collect this information would inhibit FNIC's ability to provide subscription services to these discussion groups.

Description of Respondents: Individuals or households.

Number of Respondents: 1,000.

Frequency of Responses: Reporting: Monthly; Annually.

Total Burden Hours: 17.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E9–21760 Filed 9–8–09; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. AMS–FV–09–0025; FV09–900–1NC]

Request for New Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval for an information collection for the AMS Survey of Marketing Order Online System (MOLS) Users, the automated FV–6 form used by importers and receivers for exempt imported fruits, vegetables and specialty crops.

DATES: Comments on this notice must be received by November 9, 2009.

ADDRESSES: Interested persons are invited to submit written comments concerning this notice. Comments can be sent to Valerie L. Emmer-Scott, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Washington, DC 20250–0237; (202) 205–2829, Fax: (202) 720–8938, or Internet: *http://www.regulations.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nicole Nelson, Compliance Team, Marketing Order Administration Branch, AMS, USDA, (202) 720–6467, or E-mail: *nicole.nelson@ams.usda.gov.;* or Greg Breasher, Compliance Team, Marketing Order Administration Branch, AMS, USDA, (559) 487–5003, or E-mail: *gregory.breasher@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Marketing Order Online System (MOLS) Survey, Form FV–660.

OMB Number: 0581–NEW.

Type of Request: New information collection.

Abstract: Section 8e of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601–674), hereinafter referred to as the ''Act'', requires that when the Secretary of Agriculture issues grade, size, quality, or maturity regulations under domestic marketing orders for certain commodities, the same or comparable regulations apply to imports of those commodities. Import regulations apply only during those periods when domestic marketing order regulations are in effect.

Currently, the following commodities are subject to Section 8e import regulations: avocados, dates (other than dates for processing), hazelnuts, grapefruit, table grapes, kiwifruit, olives (other than Spanish-style olives), onions, oranges, Irish potatoes, dried prunes (suspended), fresh prunes, raisins, tomatoes, and walnuts. However, imports of these commodities are exempt from such requirements if they are imported for such outlets as processing, charity, animal feed, seed and distribution to relief agencies under the applicable marketing orders.

Safeguard procedures in the form of importer and receiver reporting requirements ensure that the imported commodities are shipped to authorized exempt outlets. Reports required under the safeguard procedures are similar to the reports currently required by most domestic marketing orders. The following import regulations require importers and receivers of imported fruit, vegetable and specialty crops to submit reports: (1) Fruits; import regulations (7 CFR part 944.350); (2) Vegetables; import regulations (7 CFR part 980.501); and (3) Specialty crops; import regulations (7 CFR part 999.500).

When required to do so under the above regulations, an importer wishing to import commodities for exempt purposes completes Form FV–6, ''Importer's Exempt Commodity Form,'' prior to importation. In August 2008, the web-based application, ''Marketing Order Online System (MOLS)'' was launched allowing fruit, vegetable and specialty crop importers and receivers to submit, review and search for FV–6 certificates online. The MOLS was developed to not only help USDA manage incoming FV–6 forms, but to also help importers reduce paperwork, streamline operations and allows the most efficient clearance through U.S. Customs and Border Protection. The FV–6 form and the MOLS are currently approved by the Office of Management and Budget (OMB) under OMB No. 0581–0167, ''Specified Commodities Imported into the United States Exempt from Import Requirements.''

The MOLS requires the minimum amount of information necessary to effectively carry out the requirements of the Act. It fulfills the intent of the Act and administers Section 8e compliance activities.

AMS offered MOLS to a test group of importers and receivers in November 2008. In January 2009, AMS opened the system to all importers and receivers. Although the MOLS is the recommended form of FV–6 submission, paper copies are occasionally used by those respondents who do not have internet access.

AMS has developed a customer satisfaction survey, Form FV–660, to gather specific information from approximately 200 respondents currently registered and utilizing the MOLS. Information will be collected on a voluntary basis, and the respondents' identities will not be revealed in the survey results. The survey will allow AMS to better serve the fruit, vegetable and specialty crop importing and handling community. AMS is seeking OMB approval of the survey, under OMB No. 0581–NEW. Upon approval, we request that the burden be merged into OMB No. 0581–0167.

The information collected through this package will be used and analyzed by authorized representatives of USDA, including AMS' Fruit and Vegetable Programs' headquarters staff. The survey, FV–660, would be distributed

by e-mail to the respondents. Respondents would return the survey by e-mail to the address on the survey form.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .25 hours per response.

Respondents: Importers and receivers.

Estimated Number of Respondents: 200.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 50 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments received will become a matter of public record.

Dated: September 2, 2009.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. E9–21655 Filed 9–8–09; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by November 9, 2009.

FOR FURTHER INFORMATION CONTACT: Michele L. Brooks, Director, Program Development and Regulatory Analysis, USDA, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1522, Room 5162 South Building, Washington, DC 20250–1522. Telephone: (202) 690–1078. Fax: (202) 720–8435. E-mail: *michele.brooks@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for extension.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Michele L. Brooks, Director, Program Development and Regulatory Analysis, USDA, Rural Utilities Service, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. FAX: (202) 720–8435. E-mail: *michele.brooks@wdc.usda.gov*.

Title: Emergency and Imminent Community Water Assistance Grants.

OMB Control Number: 0572–0110.

Type of Request: Extension of a currently approved collection.

Abstract: This action amends the existing regulation for the Emergency Community Water Assistance Grant (ECWAG) Program to allow grants to be made before an emergency has actually occurred. The ECWAG program was authorized by the Rural Development Act of 1972. The grants are made to public bodies, nonprofit corporations, and Indian Tribes for the purpose of improving rural living standards and for other purposes that create safe and affordable drinking water in rural areas or towns with a population not exceeding 10,000 inhabitants.

These grants can be made to construct or improve drinking water facilities serving the most financially needy communities. This revision is undertaken specifically to respond to requirements of Section 6009 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171). (2002 Farm Bill).

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.6 hours per response.

Respondents: Not-for-profit institutions; State, local or Tribal Government.

Estimated Number of Respondents: 100.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 400 hours.

Copies of this information collection can be obtained from Gale Richardson, Program Development and Regulatory Analysis at (202) 720–0992. FAX: (202) 720–8435.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: September 2, 2009.

James R. Newby,

Acting Administrator, Rural Utilities Service.

[FR Doc. E9–21722 Filed 9–8–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2008–0015]

Citrus Greening and Asian Citrus Psyllid; Availability of an Environmental Assessment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that an environmental assessment has been prepared by the Animal and Plant Health Inspection Service relative to a proposed control program for citrus greening disease and the Asian citrus psyllid. The environmental assessment documents our review and analysis of the potential environmental impacts associated with the implementation of this program. We are making this environmental assessment available to the public for review and comment.

DATES: We will consider all comments that we receive on or before November 9, 2009.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0015* to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2008–0015, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2008–0015.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Gomes, APHIS, PPQ, 920 Main Campus Drive, Suite 200, Raleigh, NC 27606–5213; (919) 855–7313.

SUPPLEMENTARY INFORMATION:

Background

Citrus greening, also known as huanglongbing disease of citrus, is considered to be one of the most serious citrus diseases in the world. Citrus greening is a bacterial disease caused by strains of the bacterial pathogen ''*Candidatus* Liberibacter asiaticus'' that attacks the vascular system of host plants. The bacteria are phloem-limited, inhabiting the food-conducting tissue of the host plant, and causes yellow shoots, blotchy mottling and chlorosis, reduced foliage, and tip dieback of citrus plants. Citrus greening greatly reduces production, destroys the economic value of the fruit, and can kill trees. Once a tree is infected with citrus greening, there is no cure for the disease. In areas of the world where citrus greening is endemic, citrus trees decline and die within a few years and may never produce usable fruit. Citrus greening was first detected in the United States in Miami-Dade County, FL, in 2005, and is only known to be present in the United States in the States of Florida and Georgia, two parishes in Louisiana, and two counties in South Carolina.

The bacterial pathogen causing citrus greening can be transmitted by grafting, and under laboratory conditions, by dodder. There also is some evidence that seed transmission may occur. The pathogen can also be transmitted by two insect vectors in the family *Psyllidae: Diaphorina citri* Kuwayama, the Asian citrus psyllid (ACP), and *Trioza erytreae* (del Guercio), the African citrus psyllid. ACP can also cause economic damage to citrus in groves and nurseries by direct feeding. Both adults and nymphs feed on young foliage, depleting the sap and causing galling or curling of leaves. High populations feeding on a citrus shoot can kill the growing tip. ACP is currently present in Alabama, California, Florida, Georgia, Guam, Hawaii, Louisiana, Mississippi, Puerto Rico, South Carolina, and Texas. Based on regular surveys of domestic commercial citrus-producing areas, the African citrus psyllid is not present in the United States.

The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) has undertaken measures to control the artificial spread of citrus greening to noninfested areas of the United States since its introduction in 2005. On September 16, 2005, APHIS issued a Federal Order designating one affected county in Florida as a quarantined area, and imposing restrictions on the interstate movement all citrus greening and ACP host material from this area.[1]

In January 2006, we issued an environmental assessment titled ''Citrus Greening Control Program in Florida Nurseries'' (January 2006).[2] This document assessed the environmental impacts associated with the use of the pesticide treatments acetamiprid, chlorpyrifos, fenpropathrin, imidacloprid, kaolin, and a cyfluthrin/imidacloprid mixture as part of a disease control program for citrus greening and ACP.

On November 2, 2007, we issued a revised order that designated additional counties in Florida as areas quarantined for citrus greening, and that quarantined 32 counties in Texas, the entire States of Florida and Hawaii, the entire Territory of Guam, and the entire Commonwealth of Puerto Rico for ACP. The November 2007 order also contained treatments that could be performed on ACP regulated articles to allow their movement from a quarantined area to areas of the United States other than commercial citrus-producing States. The order stated that, prior to movement, host material (other than *Bergera* (*Murraya*) *koenigii,* or curryleaf) had to be treated using an Environmental Protection Agency-approved product labeled for use in nurseries. The articles had to subsequently be treated with a drench containing imidacloprid as the active ingredient within 30 days prior to movement and with a foliar spray with a product containing acetamiprid, chlorpyrifos, or fenpropathrin as the active ingredient within 10 days prior to movement. Provided that it did not originate from an area quarantined for citrus greening, curryleaf could be moved interstate to any State following treatment with methyl bromide according to the APHIS-approved treatment schedule MB T101-n-2, found in 7 CFR part 305.

We accompanied this revised order with a notice[3] published in the **Federal Register** on November 2, 2007 (72 FR 62204–62205; Docket No. APHIS–2007–0135), in which we announced to the public the availability of an environmental assessment titled ''Movement of Regulated Articles from Citrus Greening and Asian Citrus Psyllid Quarantine Zones'' (October 2007). The assessment evaluated the possible environmental impacts associated with implementation of the revised Federal Order, and, in particular, the treatment schedules specified within it.

Since issuance of these documents, we have issued six additional Federal Orders to designate new areas as quarantined areas for citrus greening or ACP. In these orders, we have added irradiation treatment at 400 gray as an approved treatment for ACP host articles, provided that the articles do not originate from an area that is quarantined for citrus greening. The latest Federal Order was issued on July 29, 2009.

Concurrent with the issuance of these Federal Orders, we have also received requests from citrus industry representatives and State plant health officials in several States with

[1] To view the September 2005 Federal Order or any other Federal order referenced in this document, go to *http://www.aphis.usda.gov/plant_health/plant_pest_info/citrus_greening/regs.shtml.*

[2] To view the 2006 environmental assessment, go to *http://www.aphis.usda.gov/plant_health/ea/downloads/citrusgreening1-06ea.pdf.*

[3] To view the notice and the environmental assessment, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0135.*

commercial citrus production to examine the efficacy of in-ground granular applications containing dinotefuran and foliar sprays containing bifenthrin, deltamethrin, dinotefuran, or a mixture of imidacloprid and cyfluthrin as pesticide treatments for ACP. We have found them to be effective in treating regulated nursery stock for ACP.

Accordingly, we have completed an assessment of the environmental impacts anticipated from a control program that would incorporate the provisions of the latest Federal order, the use of these new granular applications and foliar sprays as treatments for ACP, and additional measures that are currently not included in the July 29, 2009 Federal Order but that we consider necessary to prevent the spread of citrus greening and ACP to currently unaffected areas of the United States.

APHIS' review and analysis of these potential environmental impacts are documented in detail in an environmental assessment titled ''Quarantine and Interstate Movement of Citrus Greening and Asian Citrus Psyllid'' (July 2009). We are making this assessment available to the public for review and comment. We will consider all comments that we receive on or before the date listed under the heading **DATES** at the beginning of this notice.

The environmental assessment may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for instructions for accessing the document on Regulations.gov and information on the location and hours of the reading room). You may request paper copies of the environmental assessment by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to title of the assessment when requesting copies.

The environmental assessment has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 2nd day of September 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–21669 Filed 9–8–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–TM–09–0060; TM–09–07]

Notice of Meeting of the National Organic Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the Agricultural Marketing Service (AMS) is announcing a forthcoming meeting of the National Organic Standards Board (NOSB).

DATES: The meeting dates are Tuesday, November 3, 2009, 9 a.m. to 5 p.m.; Wednesday, November 4, 2009, 8 a.m. to 5 p.m.; and Thursday, November 5, 2009, 8 a.m. to 5 p.m. Requests from individuals and organizations wishing to make oral presentations at the meeting are due by the close of business on October 19, 2009.

ADDRESSES: The meeting will take place at the Washington Plaza Hotel, 10 Thomas Circle, NW., Washington, DC 20005.

- Requests for copies of the NOSB meeting agenda, may be sent to Ms. Valerie Frances, Executive Director, NOSB, USDA–AMS–TMP–NOP, 1400 Independence Ave., SW., Room 4004–So., Ag Stop 0268, Washington, DC 20250–0268. The NOSB meeting agenda and proposed recommendations may also be viewed at *http://www.ams.usda.gov/nop.*
- Comments on proposed NOSB recommendations may be submitted by the close of business of October 19, 2009, in writing to Ms. Valerie Frances at either the postal address above or via the Internet at *http://www.regulations.gov* only. The comments should identify Docket No. AMS–TM–09–0060. It is our intention to have all comments to this notice whether they are submitted by mail or the Internet available for viewing on the *http://www.regulations.gov* Web site.
- Requests to make an oral presentation at the meeting may also be sent by October 19, 2009, to Ms. Valerie Frances at the postal address above, by e-mail at *valerie.frances@ams.usda.gov,* via facsimile at (202) 205–7808, or phone at (202) 720–3252.

FOR FURTHER INFORMATION CONTACT: Valerie Frances, Executive Director, NOSB, National Organic Program (NOP), (202) 720–3252, or visit the NOP Web site at: *http://www.ams.usda.gov/nop.*

SUPPLEMENTARY INFORMATION: Section 2119 (7 U.S.C. 6518) of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. 6501 *et seq.*) requires the establishment of the NOSB. The purpose of the NOSB is to make recommendations about whether a substance should be allowed or prohibited in organic production or handling, to assist in the development of standards for substances to be used in organic production, and to advise the Secretary on other aspects of the implementation of the OFPA. The NOSB met for the first time in Washington, DC, in March 1992, and currently has six subcommittees working on various aspects of the organic program. The committees are: Compliance, Accreditation, and Certification; Crops; Handling; Livestock; Materials; and Policy Development.

In August of 1994, the NOSB provided its initial recommendations for the NOP to the Secretary of Agriculture. Since that time, the NOSB has submitted 170 addenda to its recommendations and reviewed more than 353 substances for inclusion on the National List of Allowed and Prohibited Substances. The Department of Agriculture (USDA) published its final National Organic Program regulation in the **Federal Register** on December 21, 2000, (65 FR 80548). The rule became effective April 21, 2001.

In addition, the OFPA authorizes the National List of Allowed and Prohibited Substances and provides that no allowed or prohibited substance would remain on the National List for a period exceeding five years unless the exemption or prohibition is reviewed and recommended for renewal by the NOSB and adopted by the Secretary of Agriculture. This expiration is commonly referred to as sunset of the National List. The National List appears at 7 CFR part 205, subpart G.

The principal purposes of the NOSB meeting are to provide an opportunity for the NOSB to receive an update from the USDA/NOP and hear progress reports from NOSB committees regarding work plan items and proposed action items. The last NOSB meeting was held on May 4–6, 2009, in Washington, DC.

At its last meeting, the Board recommended the addition of three materials with one on the National List § 205.601 for use in crops, one on § 205.603 for use in livestock and with one on § 205.606 for use in handling.

At this meeting, the NOSB will conclude its review of 11 of the 12 materials scheduled to expire after September 12, 2011. There are two

synthetic substances: Hydrogen chloride (CAS # 7647–01–0) and Ferric phosphate (CAS # 10045–86–0), currently allowed for use in organic crop production, that will no longer be allowed for use after September 12, 2011. There are ten materials: Egg white lysozyme (CAS # 9001–63–2), L–Malic acid (CAS # 97–67–6), Microorganisms, Activated charcoal (CAS #s 7440–44–0; 64365–11–3), Cyclohexylamine (CAS # 108–91–8), Diethylaminoethanol (CAS # 100–37–8), Octadecylamine (CAS # 124–30–1), Peracetic acid/Peroxyacetic acid (CAS # 79–21–0), Sodium acid pyrophosphate (CAS # 7758–16–9), and Tetrasodium pyrophosphate (CAS # 7722–88–5), currently allowed for use in organic handling, that will no longer be allowed for use after September 12, 2011. The sunset review process must be concluded no later than September 12, 2011. If renewal is not concluded by those dates, the use of these 12 materials will no longer be in compliance with the NOP.

The NOSB will also begin its review pertaining to the continued exemption (use) of 37 agricultural products not commercially available as organic that are scheduled to expire after June 27, 2012. These products are allowed for use in organic handling in or on processed products based on final commercial availability determinations by accredited certifying agents. The NOSB will also begin its review pertaining to the continued exemption (use) and prohibition of 166 substance listings used in organic production and handling scheduled to expire after October 7, 2012.

At this meeting, the Policy Development Committee will present recommendations regarding revisions to the NOSB Policy and Procedures Manual.

The Compliance, Accreditation, and Certification Committee will present their recommendation to the NOP for use as guidance for retailers, accredited certifying agents, and the NOP on the allowance and use of voluntary retail certification, and their recommendation for rule change on the regulation of personal body care products under the NOP.

The Crops Committee will present recommendations on the materials peracetic acid and manganese sulfate monohydrate petitioned for use in crops on § 205.601.

The Crops Committee will conclude their review on the continued use of the material exemptions for Hydrogen chloride (CAS # 7647–01–0) and will continue their review on the continued use of Ferric phosphate (CAS # 10045–86–0), with their respective annotations and limitations, currently allowed for use in organic crop production, that will no longer be allowed for use after September 12, 2011.

The Crops Committee will begin their review pertaining to the continued exemption (use) the following synthetic substances allowed for use in on § 205.601 that are scheduled to expire after October 7, 2012 from use in organic crop production: Ethanol; Isopropanol; Calcium hypochlorite; Chlorine dioxide; Sodium hypochlorite; Hydrogen peroxide; Soap-based algicide/demossers; Herbicides, soap-based; Newspaper or other recycled paper, without glossy or colored inks; Plastic mulch and covers; Newspapers or other recycled paper, without glossy or colored inks; Soaps, ammonium; Ammonium carbonate; Boric acid; Elemental sulfur (3 uses); Lime sulfur; Oils, horticultural-narrow range oils as dormant, suffocating, and summer oils (2 uses); Soaps, insecticidal; Sticky traps/barriers; Pheromones; Sulfur dioxide; Vitamin D_3; Copper hydroxide; Copper oxide; Copper oxychloride; Copper sulfate (2 uses); Hydrated lime; Hydrogen peroxide; Lime sulfur; Potassium bicarbonate; Streptomycin; Tetracycline (oxytetracycline calcium complex); Aquatic plant extracts (other than hydrolyzed); Humic acids; Lignin sulfonate; Magnesium sulfate; Soluble boron products; Sulfates, carbonates, oxides, or silicates of zinc, copper, iron, manganese, molybdenum, selenium, and cobalt; Liquid fish products; Vitamin B_1; Vitamin C; Vitamin E; Ethylene gas; Lignin sulfonate; Sodium silicate; and EPA List 4–Inerts of Minimal Concern.

The Crops Committee will begin their review pertaining to the continued prohibition of the following synthetic substances on § 205.602 which are scheduled to expire and be allowed for use after October 7, 2012 in organic crop production: Ash from manure burning; Arsenic; Lead salts; Potassium chloride; Sodium fluoaluminate (mined); Sodium nitrate; Strychnine; and Tobacco dust (nicotine sulfate).

The Materials Committee will present its recommendation to the NOP for rule change on various definitions and the use of nanotechnology in organic standards.

The Livestock Committee will present their recommendations on the material Eprinomectin petitioned for use in livestock production on § 205.603.

The Livestock Committee will present its recommendations on technical corrections to the annotations for the materials: Vaccines, Excipients, Chlorhexidine, and Xylazine currently allowed on § 205.603 for use in organic livestock production.

The Livestock Committee will also present their recommendations to the NOP in regards to the development of more specific standards for the improvement of animal welfare under organic management and for the development of organic aquaculture standards for bivalves.

The Livestock Committee will begin their review pertaining to the continued exemption (use) of the following synthetic substances allowed for use in organic livestock production on § 205.603 that are scheduled to expire after October 7, 2012: Ethanol; Isopropanol; Aspirin; Vaccines; Chlorhexidine; Calcium hypochlorite. Chlorine dioxide; Sodium hypochlorite; Electrolytes; Glucose; Glycerine; Hydrogen peroxide; Iodine; Magnesium sulfate; Oxytocin; Ivermectin; Phosphoric acid; Copper sulfate; Iodine; Lidocaine; Lime, hydrated; Mineral oil; Procaine; Trace minerals; Vitamins; EPA List 4–Inerts of Minimal Concern.

The Livestock Committee will also begin their review pertaining to the continued prohibition of the following synthetic substance on § 205.604 which is scheduled to expire and be allowed for use after October 7, 2012 in organic livestock production: Strychnine.

The Materials and Handling Committees will jointly present their recommendations to the NOP to clarify the definitions of the National List.

The Handling Committee will conclude their review on the continued use of the material exemptions for ten materials: Egg White Lysozyme (CAS # 9001–63–2), L-Malic acid (CAS # 97–67–6), Microorganisms, Activated charcoal (CAS #s 7440–44–0; 64365–11–3), Cyclohexylamine (CAS # 108–91–8), Diethylaminoethanol (CAS # 100–37–8), Octadecylamine (CAS # 124–30–1), Peracetic acid/Peroxyacetic acid (CAS # 79–21–0), Sodium acid pyrophosphate (CAS # 7758–16–9), and Tetrasodium pyrophosphate (CAS # 7722–88–5), with their respective annotations and limitations currently allowed for use in organic handling on § 205.605, that will no longer be allowed for use after September 12, 2011.

The Handling Committee will begin their review pertaining to the continued exemption (use) of the nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as ''organic'' on § 205.606 depending on final commercial availability determinations performed by accredited certifying agents scheduled to expire after June 27, 2012.

The following are allowed as color ingredients from agricultural products: Annatto extract color (pigment CAS # 1393–63–1)—water and oil soluble; Beet juice extract color (pigment CAS # 7659–95–2); Beta-Carotene extract color from carrots (CAS # 1393–63–1); Black currant juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Black/Purple carrot juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Blueberry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Carrot juice color (pigment CAS # 1393–63–1); Cherry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Chokeberry—Aronia juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Elderberry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Grape juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Grape skin extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Paprika color—dried powder and vegetable oil extract (CAS # 68917–78–2); Pumpkin juice color (pigment CAS # 127–40–2); Purple potato juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Red cabbage extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Red radish extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3); Saffron extract color (pigment CAS # 1393–63–1), and Turmeric extract color (CAS # 458–37–7).

The following are allowed as ingredients or processing aids from agricultural products: Casings, from processed intestines (no CAS #); Celery powder (No CAS #); Chia (*Salvia hispanica L.*) (no CAS #); Dillweed oil (CAS # 8006–75–5); Fish oil (Fatty acid CAS #'s: 10417–94–4, and 25167–62–8); Fructooligosaccharides (CAS # 308066–66–2); Galangal, frozen (no CAS #); Gelatin (CAS # 9000–70–8); Hops (*Humulus lupulus*) (no CAS #); Inulin, oligofructose enriched (CAS # 9005–80–5); Konjac flour (CAS # 37220–17–0); Lemongrass, frozen (no CAS #); Orange shellac, unbleached (CAS # 9000–59–3); Pepper, chipotle chile (no CAS #); Sweet potato starch, for bean thread production only (no CAS #); Turkish bay leaves (no CAS #); Wakame seaweed (*Undaria pinnatifida*) (no CAS #); and Whey protein concentrate (no CAS #).

The Handling Committee will begin their review pertaining to the continued exemption (use) of the following nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food groups(s)) currently scheduled for expiration after October 7, 2012 from § 205.605 as (a) Nonsynthetics allowed: Acids (Alginic; Citric; and Lactic); Bentonite; Calcium carbonate; Calcium chloride; Carageenan; Dairy cultures; Diatomaceous earth; Enzymes; Flavors; Kaolin; Magnesium sulfate; Nitrogen; Oxygen; Perlite; Potassium chloride; Potassium iodide; Sodium bicarbonate; Sodium carbonate; Waxes; Yeast (Autolysate; Bakers; Brewers; Nutritional; and Smoked).

The Handling Committee will begin their review pertaining to the continued exemption (use) of the following nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food groups(s)) currently scheduled for expiration after October 7, 2012 listed on § 205.605 as (b) Synthetics allowed: Alginates; Ammonium bicarbonate; Ammonium carbonate; Ascorbic acid; Calcium citrate; Calcium hydroxide; Calcium phosphates (monobasic, dibasic, and tribasic); Carbon dioxide; Chlorine materials (Calcium hypochlorite; Chlorine dioxide; and Sodium hypochlorite); Ethylene; Ferrous sulfate; Glycerides (mono and di) Glycerin; Hydrogen peroxide; Lecithin—bleached; Magnesium carbonate; Magnesium chloride; Magnesium stearate; Nutrient vitamins and minerals; Ozone; Pectin (low-methoxy); Phosphoric acid; Potassium acid tartrate; Potassium carbonate; Potassium citrate; Potassium hydroxide; Potassium iodide; Potassium phosphate; Silicon dioxide; Sodium citrate; Sodium hydroxide; Sodium phosphates; Sulfur dioxide; Tocopherols; and Xanthan gum.

The Handling Committee will begin their review pertaining to the continued exemption (use) of the nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as ''organic'' on § 205.606 depending on final commercial availability determinations performed by accredited certifying agents that are scheduled to expire after October 7, 2012. They are as follows: Cornstarch (native); Gums-water extracted only (arabic, guar, locust bean, carob bean); Kelp; Lecithin-unbleached; and Pectin (high-methoxy).

The Meeting is Open to the Public. The NOSB has scheduled time for public input for Tuesday, November 3, 2009, from 10:45 a.m. to 5 p.m. and Wednesday, November 4, 2009, from 3:30 p.m. to 5 p.m. Individuals and organizations wishing to make oral presentations at the meeting may forward their requests by mail, facsimile, e-mail, or phone to Ms. Valerie Frances as listed in **ADDRESSES** above. Individuals or organizations will be given approximately five minutes to present their views. All persons making oral presentations are requested to provide their comments in writing. Written submissions may contain information other than that presented at the oral presentation. Anyone may submit written comments at the meeting. Persons submitting written comments are asked to provide 30 copies.

Interested persons may visit the NOSB portion of the NOP Web site at *http://www.ams.usda.gov/nop* to view available meeting documents prior to the meeting, or visit *http://www.regulations.gov* to submit and view comments as provided for in **ADDRESSES** above. Documents presented at the meeting will be posted for review on the NOP Web site approximately six weeks following the meeting.

Dated: August 28, 2009.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. E9–21610 Filed 9–8–09; 8:45 am]

BILLING CODE 3410–02–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

National Environmental Policy Act: Categorical Exclusions for Certain Internal, Domestic USAID Activities Funded From the USAID Operating Expense Account

AGENCY: United States Agency for International Development.

ACTION: Directive of Final Action and Request for Comments.

SUMMARY: The United States Agency for International Development (USAID) hereby establishes Categorical Exclusions (CEs) under the National Environmental Policy Act (NEPA) for certain types of activities that focus on internal, domestic USAID Operating Expense (OE) account-funded activities such as routine internal administrative actions, routine maintenance of domestic facilities, and procurement

and deployment of information technology software and systems in existing facilities. The Directive CEs will better ensure USAID implementation of NEPA by providing for the efficient and timely environmental review of routine internal administrative operations at USAID facilities.

DATES: Submit comments on or before October 9, 2009.

Effective Date: This Directive is effective immediately upon publication. All comments will be reviewed and considered to determine whether there is a need for potential amendment to the CEs.

ADDRESSES: United States Agency for International Development, Ronald Reagan Building, 1300 Pennsylvania Avenue, Washington, DC 20523.

FOR FURTHER INFORMATION CONTACT: George Higginbotham, M/MPBP/POL Rm. 6.8–104, United States Agency for International Development, Ronald Reagan Building, 1300 Pennsylvania Avenue, Washington, DC 20523, *ghigginbotham@usaid.gov*.

SUPPLEMENTARY INFORMATION: Consistent with the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, this Directive establishes CEs for certain routine internal, domestic administrative and operational activities of USAID organizations and offices funded from the OE account. These selected types of OE-funded activities were reviewed and determined to be categories of actions that do not have individual or cumulative significant effects on the human or natural environment, and therefore are the appropriate subject of a Categorical Exclusion under NEPA. The activities addressed in this Directive are routine internal administrative actions, routine maintenance of domestic USAID facilities, and procurement and deployment of information technology software and systems in existing USAID facilities. The activities addressed in this Directive maintain the daily internal administrative functions of USAID and do not have the potential for significant environmental effects. The Directive provides for the required review to determine whether there are extraordinary circumstances that may trigger a requirement for either an Environmental Assessment (EA) or Environmental Impact Statement (EIS), and, in the absence of such extraordinary circumstances, provides for the activity to proceed without preparation of an EA or EIS.

USAID has to date ensured the environmental soundness of its internal administrative management operations (OE-funded activities) by directly applying the Presidential Executive Orders on Greening the Government. USAID will continue to follow these Executive Orders (including Executive Order 13423 and related Executive Orders) when applying CEs for certain activities under this directive. These include maintaining existing USAID facilities and procuring, maintaining, and disposing of computer equipment. This Directive establishes NEPA-compliant CEs for USAID's domestic, internal OE-funded activities.

USAID intends to publish a proposed NEPA regulation on all of its OE-funded actions later this year, and the CEs in this Directive will, subject to consideration of public comments, be included or otherwise incorporated in that proposed USAID NEPA regulation.

USAID will publish the CEs included in this Directive on the USAID Web site, which is available to the public.

Neither this action nor the proposed follow-on NEPA regulation to be developed for USAID's OE-funded activities affects or changes in any way USAID's current environmental impact assessment procedures (22 CFR 216) that apply to all program activities funded by appropriations provided through the Agency's program accounts.

Regulatory Certifications

Executive Order 12866

This Directive has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review.'' The Office of Management and Budget has determined that this Directive is not a ''significant regulatory action'' under Executive Order 12866; and accordingly, this Directive has not been reviewed by the Office of Management and Budget. This Directive affects USAID internal procedures. Whatever costs that may result from this Directive should be outweighed by the reduction in delay and excessive paperwork from these procedures.

Executive Order 13121

This Directive only affects certain internal administrative procedures and actions of USAID as described in this Directive that will not have substantial direct effects on the States, relationships between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this Directive will not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988

This Directive meets the applicable standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988.

Regulatory Flexibility Act

USAID's Regulatory Policy Officer, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this Directive and approved it. Because this Directive only affects the internal procedures of the USAID, it will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This Directive will not result in an expenditure of $100,000,000 or more in any one year by State, local, and tribal governments, in the aggregate, or by the private sector, nor will it significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

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

Environmental Impact

This Directive supplements CEQ regulations and provides guidance to USAID employees regarding procedural requirements for certain OE-funded activities that do not individually or cumulatively have a significant effect on the human environment. CEQ does not direct agencies to prepare a NEPA analysis or document before establishing agency procedures that supplement the CEQ regulations for implementing NEPA. Agency NEPA procedures are procedural guidance to assist agencies in the fulfillment of agency responsibilities under NEPA. The requirements for establishing agency NEPA procedures are set forth at 40 CFR 1505.1 and 1507.3

For the reasons set out in the preamble, USAID establishes the following Directive:

Categorical Exclusions for Domestic Internal Operational Activities

Purpose: Establish National Environmental Policy Act (NEPA)-compliant Categorical Exclusions for certain United States Agency for International Development (USAID) domestic internal operational activities.

Policy: Consistent with the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508) (CEQ NEPA regulations), USAID establishes the following Categorical Exclusions for certain categories of internal, domestic USAID Operating Expense (OE) account-funded activities that address routine internal administrative and operational activities. A proposed action may be categorically excluded if the action fits within a category that is eligible for exclusion and the proposed action does not involve any extraordinary circumstances.

The categories of activities eligible for Categorical Exclusions are:

a. Internal personnel, fiscal, management, and administrative activities, such as recruiting, processing, paying, recordkeeping, resource management, budgeting, personnel actions, official travel, and reductions, increases, realignments, or relocation of personnel that do not exceed the infrastructure capacity or change the use of USAID occupied office space. An example of a substantial change in use of the supporting infrastructure would be an increase in vehicular traffic beyond the capacity of the supporting road network to accommodate such an increase; or generating a new stream of toxic or hazardous waste that needs to be properly disposed of.

b. Actions at USAID owned or operated facilities involving routine facility maintenance, repair, and grounds-keeping; minor rehabilitation, restoration, renovation, or revitalization of existing facilities; and replacement, acquisition, and installation of information technology and similar office equipment. To qualify for this Categorical Exclusion, all such acquisition actions shall comply with the Presidential Executive Orders on Greening the Government. This includes E.O. 13423 and related Executive Orders.

c. Acquisition actions (compliant with applicable procedures for sustainable or ''green'' procurement) and contracting actions necessary to support the normal conduct of USAID business. Examples include office supplies and utilities, and equipment such as furniture, and information technology software and systems. To qualify for this Categorical Exclusion, all such acquisition actions shall comply with the Presidential Executive Orders on Greening the Government. This includes E.O. 13423 and related Executive Orders.

d. Minor or small-scale construction of ancillary facilities on previously disturbed areas adjacent to or on the same property as the existing facility and compatible with current land use. To qualify for this Categorical Exclusion, all such acquisition actions shall comply with the Presidential Executive Orders on Greening the Government. This includes E.O. 13423 and related Executive Orders.

e. Awarding of contracts for technical support services, information technology services, and services for ongoing management and operation of government facilities. To qualify for this Categorical Exclusion, all such actions shall comply with the Presidential Executive Orders on Greening the Government. This includes E.O. 13423 and related Executive Orders.

It has been determined that the following extraordinary circumstances that would prevent the use of a Categorical Exclusion and require either an Environmental Assessment or Environmental Impact Statement:

a. The proposed action is known or expected to significantly affect public health, safety, or the environment.

b. The proposed action is known or expected to impose uncertain or unique environmental risks.

c. The proposed action is of greater scope or size than is normal for this category of action.

d. The proposed action is known or expected to significantly affect federally listed threatened or endangered species or their critical habitat.

e. The proposed action is known or expected to significantly affect national natural landmarks or any property with nationally significant historic, architectural, prehistoric, archeological, or cultural value, including but not limited to, property listed on or eligible for the National Register of Historic Places.

f. The proposed action is known or expected to significantly affect environmentally important natural resource areas such as parks, forests, wetlands, floodplains, significant agricultural lands, aquifer recharge zones, coastal zones, coral reefs, barrier islands, wild and scenic rivers, and significant fish or wildlife habitat.

g. The proposed action is known or expected to cause significant adverse air quality effects.

h. The proposed action is known or expected to have a significant effect on the pattern and type of land use (industrial, commercial, agricultural, recreational, residential) or growth and distribution of population including altering the character of existing residential areas, or may not be consistent with state or local government, or federally-recognized Indian tribe approved land use plans or federal land management plans.

Applicability: This Directive applies to USAID domestic internal operational and administrative activities, including USAID ARRA-funded actions to develop and implement its new computer based acquisition and assistance system to manage contracting and granting activities. The Directive is effective immediately upon publication, and USAID will consider comments submitted on this Directive when developing its proposed NEPA regulation for Operating Expense-funded activities.

Responsibilities: The USAID Agency Environmental Coordinator (AEC) is responsible for NEPA policy, guidance and oversight relating to this Directive. The AEC will receive advice and guidance from the Office of General Counsel as to NEPA implementation and compliance with this Directive. USAID's Chief Information Officer (CIO) is responsible for reporting to CEQ and OMB on the status of ARRA funded activities.

George Higginbotham,

M/MPBP/POL.

[FR Doc. E9–21740 Filed 9–8–09; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Andrew Ward Freyer

In the Matter of: Andrew Ward Freyer, 54325 Oak Hill, La Quinta, CA 92253.

Order Denying Export Privileges

On December 17, 2007, in the U.S. District Court of Central District of California, Freyer was convicted of five counts of violating the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000) (''IEEPA'') and one count of conspiracy (18 U.S.C. 371 (2000)), involving exporting, reexporting, selling and supplying valves from the United States to Iran, through Australia without first

obtaining the required authorization from the U.S. Department of Treasury, Office of Foreign Assets Controls. Freyer was sentenced to be imprisoned for 17 months and upon release from imprisonment be placed on probation for 2 years. In addition Freyer was fined $10,000.00. He was released from prison on April 21, 2009.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'')[1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the [Export Administration Act (''EAA'')], the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); see also Section 11(h) of the EAA, 50 U.S.C. app. § 24 10(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. § 24 10(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Freyer's conviction for violating the IEEPA, and have provided notice and an opportunity for Freyer to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have received a submission from Freyer. Based upon my review and consideration of that submission, my consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Freyer's export privileges under the Regulations for a period often years from the date of Freyer's conviction.

Accordingly, it is hereby *Ordered*

I. Until December 17, 2017, Andrew Ward Freyer with an address at: 54325 Oak I–Jill, La Quinta, CA, 92253, and when acting for or on behalf of Freyer, his representatives, assigns, agents, or employees, (collectively referred to hereinafter as the ''Denied Person'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Andrew Freyer by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until December 17, 2017.

VI. In accordance with Part 756 of the Regulations, Freyer may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to Freyer. This Order shall be published in the **Federal Register**.

Issued this 1st day of September 2009.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. E9–21633 Filed 9–8–09; 8:45 am]

BILLING CODE 3510–DT–M

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2009), The Regulations are issued pursuant to the Export Administration Act (''EAA''), which is currently codified at 50 U.S.C. app. § 2401–2420 (2000). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 13, 2009 (74 FR 41,325 (August 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)).

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Bertrand Lalsingh

In the Matter of: Bertrand Lalsingh, 4252 Stirling Rd., Hollywood, FL 33021.

Order Denying Export Privileges

On February 8, 2008, in the U.S. District Court for Southern District of Florida, Bertrand Lalsingh (''Lalsingh'') pled guilty to, and was convicted of, violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2000)) (''AECA''). Lalsingh pled guilty to

knowingly and willfully exporting an EOTech 553 Holographic Weapon Sight, an item designated as a ''defense article'' in Category I of the United States Munitions List, from the United States to Germany, without having first obtained authorization from the Department of State. Lalsingh was sentenced to 5 months prison, 5 months home confinement, 2 years probation, and a $100 special assessment. He was released from prison on August 19, 2008.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'')[1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the [Export Administration Act (''EAA'')J, the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); see also Section 11(h) of the EAA, 50 U.S.C. app. § 24 10(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); see also 50 U.S.C. app. § 24 10(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Lalsingh's conviction for violating the AECA, and have provided notice and an opportunity for Lalsingh to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Lalsingh. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Lalsingh's export privileges under the Regulations for a period of five years from the date of Lalsingh's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Lalsingh had an interest at the time of his conviction.

Accordingly, it is hereby Ordered:

I. Until February 8, 2013, Bertrand Lalsingh with an address at: 4252 Stirling Rd., Hollywood, FL 33021, and when acting for or on behalf of Lalsingh, his representatives, assigns, agents, or employees, (collectively referred to hereinafter as the ''Denied Person'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Bertrand Lalsingh by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until February 8, 2013

VI. In accordance with Part 756 of the Regulations, Lalsingh may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to Lalsingh. This Order shall be published in the **Federal Register**.

Issued this 31st day August 2009.

Bernard Kritzer,

Director, Office of Exporter Services.

[FR Doc. E9–21634 Filed 9–8–09; 8:45 am]

BILLING CODE 3510–DT–M

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2009). The Regulations are issued pursuant to the Export Administration Act (''EAA''), which is currently codified at 50 U.S.C. app. §§ 2401–2420 (2000). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 13, 2009 (74 FR 41325 (August 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–812]

Honey From Argentina: Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

FOR FURTHER INFORMATION CONTACT: John Drury, Dena Crossland or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–0195, (202) 482–3362 or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 2008, the Department of Commerce (''the Department'') published a notice of opportunity to request an administrative review of the antidumping duty order on honey from Argentina for the period of review (''POR'') of December 1, 2007, through November 30, 2008. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 73 FR 72764 (December 1, 2008).

In response, on December 30, 2008, the Asociacion de Cooperativas Argentinas (''ACA'') requested an administrative review of the antidumping duty order on honey from Argentina for the period December 1, 2007, through November 30, 2008. On December 31, 2008, the American Honey Producers Association and Sioux Honey Association (collectively, ''petitioners'') requested an administrative review of the antidumping duty order on honey from Argentina for the period December 1, 2007, through November 30, 2008. Specifically, petitioners requested that the Department conduct an administrative review of entries of subject merchandise made by 17 Argentine producers/exporters.[1] Also on December 31, 2008, Nexco S.A. (''Nexco'') requested an administrative review of the antidumping duty order on honey from Argentina for the period December 1, 2007, through November 30, 2008. ACA and Nexco were included in the petitioners' request for review.

On February 2, 2009, the Department published the notice initiating this administrative review for the 17 companies for which an administrative review was requested. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation In Part*, 74 FR 5821 (February 2, 2009) (''*Initiation Notice*'').

The Department received a request for administrative review from Patagonik S.A. (''Patagonik'') in response to the December 1, 2008, opportunity to request an administrative review. However, its request was dated January 2, 2009, after the December 31, 2008, deadline. On January 23, 2009, the Department returned the letter requesting an administrative review to Patagonik, stating that the request was untimely and that the Department would not initiate a review based on this request. *See* Letter from the Department of Commerce to Patagonik S.A., dated January 23, 2009. On February 23, 2009, Patagonik submitted a letter requesting that the Department reconsider its decision not to initiate a review based on Patagonik's request. Patagonik provided information to the Department indicating the reasons for the untimely filing of the request. After examining the information, the Department again declined to initiate an administrative review based on Patagonik's request. *See* Letter from the Department of Commerce to Patagonik S.A., dated March 17, 2009.

On March 6, 2009, petitioners timely withdrew their requests for review of the following companies: AGLH S.A., Algodonera Avellaneda S.A., Alimentos Naturales–Natural Foods, Alma Pura, Bomare S.A. (Bodegas Miguel Armengol), Compania Apicola Argentina S.A. and Mielar S.A., Compania Inversora Platense S.A., EL Mana S.A., HoneyMax S.A., Interrupcion S.A., Miel Ceta SRL, Patagonik S.A., Productos Afer S.A., Seabird Argentina S.A., and Seylinco S.A. On April 17, 2009, the Department published a partial rescission of this administrative review with respect to these companies. *See Honey from Argentina: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 17815 (April 17, 2009).

On June 10, 2009, both petitioners and Nexco withdrew their requests for administrative review with respect to Nexco. The Department published a partial rescission of this administrative review with respect to Nexco on July 16, 2009. *See Honey from Argentina: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 34550 (July 16, 2009).

Currently, the preliminary results of this administrative review covering ACA are due on September 2, 2009.

Extension of Time Limits for Preliminary Results of Review

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.213(h)(2), the Department may extend the deadline for completion of the preliminary results of a review by 120 days if it determines that it is not practicable to complete the preliminary results within 245 days after the last day of the anniversary month of the date of publication of the order for which the administrative review was requested. Due to the complexity of the issues involved, including the need to solicit more information from ACA, including its date of sale methodology and sales to third country markets, and to conduct verification of ACA's response in accordance with 19 CFR 351.222(f)(2)(ii), the Department has determined that it is not practicable to complete this review within the original time period. Accordingly, the Department is extending the time limit for the preliminary results by 107 days to not later than December 18, 2009, in accordance with section 751(a)(3)(A) of the Act.

The deadline for the final results of this review will continue to be 120 days after publication of the preliminary results.

This notice is published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: August 26, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–21579 Filed 9–8–09; 8:45 am]

BILLING CODE 3510–DS–S

[1] Petitioners requested Compania Apicola Argentina S.A. and Mielar S.A.as separate entities. However, in a previous segment of this proceeding, the Department treated these two companies as a single entity.

DEPARTMENT OF DEFENSE

Office of Secretary

[Docket ID: DoD–2009–OS–0132]

Privacy Act of 1974; System of Records

AGENCY: Defense Intelligence Agency, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Defense Intelligence Agency is proposing to alter a system of

records in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on October 9, 2009 unless comments are received that would result in a contrary determination.

ADDRESSES: Freedom of Information Office, Defense Intelligence Agency (DAN–1A), 200 MacDill Blvd., Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Lowery at (202) 231–1193.

SUPPLEMENTARY INFORMATION: The Defense Intelligence Agency system of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on August 26, 2009, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: August 26, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

LDIA 0450

SYSTEM NAME:

Drug-Free Workplace Files (June 5, 2006, 71 FR 32318).

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Civilian employees and applicants for positions in the Defense Intelligence Agency.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Name, specimen identification number, Social Security Number (SSN) and records relating to the selection, notification, and testing of employees and applicants, tests results information, and related reports to include disciplinary action due to failed tests, refusal of test, incidents related to accidents, reasonable suspicion of drug use, and voluntary tests.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''E.O. 12564, Federal Drug Free Workplace; Public Law 100–71, Supplemental Appropriations Act; DoD 1010.9, DoD Civilian Employee Drug Abuse Testing Program; DIA Instruction 1015.001, Drug Free Workplace Program and E.O. 9397 (SSN), as amended.''

PURPOSE(S):

Delete entry and replace with ''The system is used to maintain Drug Testing Program Coordinator records relating to the implementation of the program, administration, selection, notification and testing of DIA employees and applicants for employment for use of illegal drugs.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To a court of competent jurisdiction where required by the United States Government to defend against any challenge against any adverse personnel action.''

* * * * *

STORAGE:

Delete entry and replace with ''Electronic storage media.''

RETRIEVABILITY:

Delete entry and replace with ''Test results are retrieved by last name and/or last five digits of the Social Security Number (SSN) and specimen identification number.''

SAFEGUARDS:

Delete entry and replace with ''Records are stored in office buildings protected by guards, controlled screenings, use of visitor registers, electronic access, and/or locks. Access to records is limited to individuals who are properly screened and cleared on a need-to-know basis in the performance of their duties. Passwords and User IDs are used to control access to the system data, and procedures are in place to deter and detect browsing and unauthorized access. Physical and electronic access are limited to persons responsible for servicing and authorized to use the system.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Disposition pending (until the National Archives and Records Administration approves retention and disposal schedule, records will be treated as permanent).''

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''The individual test subject, medical review certifying officer, administrative personnel and others on a case-by-case basis.''

* * * * *

LDIA 0450

SYSTEM NAME:

Drug-Free Workplace Files.

SYSTEM LOCATION:

Defense Intelligence Agency, Washington, DC 20340–5100.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees and applicants for positions in the Defense Intelligence Agency.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees of the Defense Intelligence Agency as well as applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, specimen identification number, Social Security Number (SSN) and records relating to the selection, notification, and testing of employees and applicants, tests results information, and related reports to include disciplinary action due to failed tests, refusal of test, incidents related to accidents, reasonable suspicion of drug use, and voluntary tests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 12564, Federal Drug Free Workplace; Public Law 100–71, Supplemental Appropriations Act; DoD 1010.9, DoD Civilian Employee Drug Abuse Testing Program; DIA Instruction 1015.001, Drug Free Workplace Program and E.O. 9397 (SSN), as amended.

PURPOSE(S):

The system is used to maintain Drug Testing Program Coordinator records relating to the implementation of the program, administration, selection, notification and testing of DIA employees and applicants for employment for use of illegal drugs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records may specifically be disclosed

outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To a court of competent jurisdiction where required by the United States Government to defend against any challenge against any adverse personnel action.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Test results are retrieved by last name and/or last five digits of the Social Security Number (SSN) and specimen identification number.

SAFEGUARDS:

Records are stored in office buildings protected by guards, controlled screenings, use of visitor registers, electronic access, and/or locks. Access to records is limited to individuals who are properly screened and cleared on a need-to-know basis in the performance of their duties. Passwords and user IDs are used to control access to the system data, and procedures are in place to deter and detect browsing and unauthorized access. Physical and electronic access are limited to persons responsible for servicing and authorized to use the system.

RETENTION AND DISPOSAL:

Disposition pending (until the National Archives and Records Administration approves retention and disposal schedule, records will be treated as permanent).

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director for Human Capital, ATTN: HCH, Defense Intelligence Agency, 200 MacDill Blvd., Washington, DC 20340–5100.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Freedom of Information Act Office (DAN–1A/FOIA), Defense Intelligence Agency, Washington, DC 20340–5100.

Individuals should provide their full name, current address, telephone number and Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Freedom of Information Act Office (DAN–1A/FOIA), Defense Intelligence Agency, Washington, DC 20340–5100.

Individuals should provide their full name, current address, telephone number and Social Security Number.

CONTESTING RECORD PROCEDURES:

DIA's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DIA Regulation 12–12: Defense Intelligence Agency Privacy Program; 32 CFR part 319—Defense Intelligence Agency Privacy Program; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual test subject, medical review certifying officer, administrative personnel and others on a case-by-case basis.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9–21745 Filed 9–8–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Defense Finance and Accounting Service, DoD.

ACTION: Notice to delete systems of records.

SUMMARY: The Defense Finance and Accounting Service is deleting a system of records notice from its existing inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on October 9, 2009 unless comments are received which result in a contrary determination.

ADDRESSES: Defense Finance and Accounting Service, Corporate Communications and Legislative Liaison, (DFAS–HAC/IN), 8899 E. 56th Street, Indianapolis, IN 46249–0150.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Krabbenhoft at (720) 242–6631.

SUPPLEMENTARY INFORMATION: The Defense Finance and Accounting Service systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Defense Finance and Accounting Service proposes to delete a system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: September 3, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

T7401

SYSTEM NAME:

Standard Accounting, Budgeting, and Reporting System (SABRS) (July 9, 2007, 72 FR 37203).

Reason: The records contained in this system of records can no longer be retrieved by the individual's name, Social Security Number, or other personal identifier and therefore, are no longer subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. Since the system is no longer subject to the Privacy Act, it is being deleted from the Defense Finance and Accounting Service existing inventory of systems of records notices.

Accordingly, this Privacy Act System of Records Notice should be deleted.

[FR Doc. E9–21749 Filed 9–8–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1005–000]

City of Boulder, CO; Notice of Authorization for Continued Project Operation

September 2, 2009.

On March 9, 2009, the City of Boulder, licensee for the Boulder Canyon Hydroelectric Project, filed an Application for a Small Conduit Exemption in lieu of an application for a new license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Boulder Canyon Hydroelectric Project is located on water supply facilities of the City of Boulder, in Boulder and Nederland Counties, Colorado.

The license for Project No. 1005 was issued for a period ending August 31, 2009. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise

disposed of as provided in section 15 or any other applicable section of the FPA.

The Boulder Canyon Hydroelectric Project is subject to section 15 of the FPA. Notice is hereby given that an annual license for Project No. 1005 is issued to the City of Boulder for a period effective September 1, 2009 through August 31, 2010, or until the issuance of a Small Conduit Exemption for the project or other disposition under the FPA, whichever comes first. If issuance of a Small Conduit Exemption (or other disposition) does not take place on or before August 31, 2010, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–21733 Filed 9–8–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

September 2, 2009.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC09–107–000.

Applicants: Krayn Wind LLC, Everpower Wind Holdings, Inc.,Trireme Energy Investments, Inc.

Description: Krayn Wind LLC, *et al.* Joint Application for Authorization under FPA 203 Waivers and Expedited Consideration.

Filed Date: 09/02/2009.

Accession Number: 20090902–5061.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 23, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER09–1642–000.

Applicants: Bangor Hydro-Electric Company.

Description: Bangor Hydro Electric Company submits Settlement Agreement with Covanta Maine, LLC *etc.*

Filed Date: 08/27/2009.

Accession Number: 20090831–0036.

Comment Date: 5 p.m. Eastern Time on Thursday, September 17, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed 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.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–21732 Filed 9–8–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 233—161]

Pacific Gas and Electric Company; Notice of Availability of Environmental Assessment

September 2, 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 Pit 3, 4, and 5 Project (FERC No. 233) and has prepared an environmental assessment (EA). The project is located on the Pit River, in Shasta County, California and occupies 746 acres of lands of the United States administered by the Forest Supervisors of the Shasta-Trinity and Lassen National Forests.

The EA contains the Commission staff's analysis of the potential environmental effects of the proposed addition of new generating capacity and construction of a new powerhouse 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. On August 27, 2009, the Commission issued the Order Amending License which authorized the construction and operation of the Britton Powerhouse.

Copies of the 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 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. E9–21734 Filed 9–8–09; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2006–0525; FRL–8953–9]

Agency Information Collection Activities; Proposed Collection; Comment Request; Registration of Fuels and Fuel Additives—Health-Effects Research Requirements for Manufacturers; EPA ICR No. 1696.06, OMB Control No. 2060–0297

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 EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on February 28, 2010. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before November 9, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2006–0525, 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) 566–1741.
- *Mail:* Air and Radiation Docket, Docket ID No. EPA–HQ–OAR–2006–0525, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2006–0525. 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.*

FOR FURTHER INFORMATION CONTACT: James W. Caldwell, Office of Transportation and Air Quality, Mailcode: 6406J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9303; fax number: (202) 343–2802; e-mail address: *caldwell.jim@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2006–0525, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, 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 Air and Radiation Docket is 202–566–1742.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES**.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Affected entities: Entities potentially affected by this action are the

manufacturers of motor-vehicle gasoline, motor-vehicle diesel fuel, and additives for those fuels.

Title: Registration of Fuels and Fuel Additives—Health-Effects Research Requirements for Manufacturers.

ICR numbers: EPA ICR No. 1696.06, OMB Control No. 2060–0297.

ICR status: This ICR is currently scheduled to expire on February 28, 2010. 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: In accordance with the regulations at 40 CFR part 79, subparts A, B, C, and D, Registration of Fuels and Fuel Additives, manufacturers (including importers) of motor-vehicle gasoline, motor-vehicle diesel fuel, and additives for those fuels, are required to have these products registered by the EPA prior to their introduction into commerce. Registration involves providing a chemical description of the fuel or additive, and certain technical, marketing, and health-effects information. The development of health-effects data, as required by 40 CFR 79, Subpart F, is the subject of this ICR. The information collection requirements for Subparts A through D, and the supplemental notification requirements of Subpart F (indicating how the manufacturer will satisfy the health-effects data requirements) are covered by a separate ICR (EPA ICR Number 309.12, OMB Control Number 2060–1050). The health-effects data will be used to determine if there are any products which have evaporative or combustion emissions that may pose an unreasonable risk to public health, thus meriting further investigation and potential regulation. This information is required for specific groups of fuels and additives as defined in the regulations. For example, gasoline and gasoline additives which consist of only carbon, hydrogen, oxygen, nitrogen, and/or sulfur, and which involve a gasoline oxygen content of less than 1.5 weight percent, fall into a ''baseline'' group. Oxygenates, such as ethanol and ethyl tertiary butyl ether, when used in gasoline at an oxygen level of at least 1.5 weight percent, define separate ''nonbaseline'' groups for each oxygenate. Additives which contain elements other than carbon, hydrogen, oxygen, nitrogen, and sulfur fall into separate ''atypical'' groups. There are similar grouping requirements for diesel fuel and diesel fuel additives.

Manufacturers may perform the research independently or may join with other manufacturers to share in the costs for each applicable group. Several research consortiums (groups of manufacturers) have been formed. The largest consortium, organized by the American Petroleum Institute (API), represents most of the manufacturers of baseline gasoline, baseline diesel fuel, baseline fuel additives, and the prominent nonbaseline oxygenated additives for gasoline. The research is structured into three tiers of requirements for each group. Tier 1 requires an emissions characterization and a literature search for information on the health effects of those emissions. Voluminous Tier 1 data for gasoline and diesel fuel were submitted by API and others in 1997. Tier 1 data have been submitted for biodiesel, water/diesel emulsions, several atypical additives, and renewable diesel fuels. Tier 2 requires short-term inhalation exposures of laboratory animals to emissions to screen for adverse health effects. Tier 2 data have been submitted for baseline diesel, biodiesel, and water/diesel emulsions. Alternative Tier 2 testing can be required in lieu of standard Tier 2 testing if EPA concludes that such testing would be more appropriate. The EPA reached that conclusion with respect to gasoline and gasoline-oxygenate blends, and alternative requirements were established for the API consortium for baseline gasoline and six gasoline-oxygenate blends. Alternative Tier 2 requirements have also been established for the manganese additive MMT manufactured by the Afton Chemical Corporation (formerly the Ethyl Corporation). Tier 3 provides for follow-up research, at EPA's discretion, when remaining uncertainties as to the significance of observed health effects, welfare effects, and/or emissions exposures from a fuel or fuel/additive mixture interfere with EPA's ability to make reasonable estimates of the potential risks posed by emissions from a fuel or additive. To date, EPA has not imposed any Tier 3 requirements. Under Section 211 of the Clean Air Act, (1) submission of the health-effects information is necessary for a manufacturer to obtain registration of a motor-vehicle gasoline, diesel fuel, or fuel additive, and thus be allowed to introduce that product into commerce, and (2) the information shall not be considered confidential.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 7,067 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 3.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 21,200.

Estimated total annual costs: $2.8 million. This includes an estimated burden cost of $2.2 million and an estimated cost of $0.6 million for capital investment or maintenance and operational costs.

Are There Changes in the Estimates From the Last Approval?

There is a decrease of 8,950 hours in the total estimated annual respondent burden compared with that identified in the ICR currently approved by OMB. This decrease reflects EPA's updating of burden estimates. The MMT Alternative Tier 2 testing program noted above, and covered in the previous ICR, has completed. The API Alternative Tier 2 testing program has completed most of the testing requirements. It will have significantly reduced activity as it nears completion over the next three years. Although there will likely be new fuels and additives for which testing will be required, such testing is not expected to be as extensive as the two programs noted above.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as

appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: September 1, 2009.

Margo Tsirigotis Oge,

Director, Office of Transportation and Air Quality.

[FR Doc. E9–21727 Filed 9–8–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8954–4]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Rick Westlund (202) 566–1682, or e-mail at *westlund.rick@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR Number 1695.09; Emissions Certification and Compliance Requirements for Nonroad Spark-ignition Engines (Renewal); 40 CFR parts 90, 1048, 1051, 1065, and 1068; was approved on 08/02/2009; OMB Number 2060–0338; expires on 08/31/2012; Approved without change.

EPA ICR Number 2071.04; NESHAP for Printing, Coating and Dyeing of Fabrics and Other Textiles; 40 CFR part 63, subpart A; 40 CFR part 63, subpart OOOO; was approved on 08/02/2009; OMB Number 2060–0522; expires on 08/31/2012; Approved without change.

EPA ICR Number 2003.04; NESHAP for Integrated Iron and Steel Manufacturing; 40 CFR part 63, subpart A; 40 CFR part 63, subpart FFFFF; was approved on 08/03/2009; OMB Number 2060–0517; expires on 08/31/2012; Approved without change.

EPA ICR Number 1541.09; NESHAP for Benzene Waste Operations; 40 CFR part 61, subpart FF; 40 CFR part 63, subpart A; was approved on 08/03/2009; OMB Number 2060–0183; expires on 08/31/2012; Approved without change.

EPA ICR Number 2029.04; NESHAP for Asphalt Processing and Asphalt Roofing Manufacturing; 40 CFR part 63, subpart A; 40 CFR part 63, subpart LLLLL; was approved on 08/03/2009; OMB Number 2060–0520; expires on 08/31/2012; Approved without change.

EPA ICR Number 2367.01; Consumer Research through Focus Groups to Develop Improved Labeling for Pesticide Products (formerly identified as EPA ICR 2297.01); 40 CFR part 156; was approved on 08/07/2009; OMB Number 2070–0175; expires on 08/31/2012; Approved without change.

EPA ICR Number 2023.04; NESHAP for Clay Ceramics Manufacturing; 40 CFR part 60, subpart A; 40 CFR part 60, subpart KKKKK; was approved on 08/07/2009; OMB Number 2060–0513; expires on 08/31/2012; Approved without change.

EPA ICR Number 2251.03; Control of Emissions from Nonroad Spark-Ignition Engines and Equipment (Change); 40 CFR part 1065; was approved on 08/11/2009; OMB Number 2060–0603; expires on 07/31/2012; Approved without change.

EPA ICR Number 1292.08; Enforcement Policy Regarding the Sale and Use of Aftermarket Catalytic Converters (Renewal); 40 CFR part 85, subpart V; was approved on 08/16/2009; OMB Number 2060–0135; expires on 08/31/2012; Approved without change.

EPA ICR Number 2195.03; Submission of Protocols and study Reports for Environmental Research Involving Human Subjects; 40 CFR part 26; was approved on 08/16/2009; OMB Number 2070–0169; expires on 08/31/2012; Approved without change.

EPA ICR Number 1426.08; EPA Worker Protection Standards for Hazardous Waste Operations and Emergency Response (Renewal); 40 CFR part 311; was approved on 08/16/2009; OMB Number 2050–0105; expires on 08/31/2012; Approved without change.

EPA ICR Number 2365.01; Chesapeake Action Plan/Activity Integration Plan (CAP/AIP) Reporting System; was approved on 08/17/2009; OMB Number 2003–0001; expires on 02/28/2010; Approved without change.

EPA ICR Number 1031.09; Recordkeeping and Reporting Requirements for Allegations of Significant Adverse Reactions to Human Health or the Environment (TSCA Section 8(c)); 40 CFR part 717; was approved on 08/19/2009; OMB Number 2070–0017; expires on 08/31/2012; Approved without change.

EPA ICR Number 1938.04; NESHAP for Municipal Solid Waste Landfills; 40 CFR part 63, subpart A; 40 CFR part 63, subpart AAAA; was approved on 08/19/2009; OMB Number 2060–0505; expires on 08/31/2012; Approved without change.

EPA ICR Number 2196.03; NSPS for Stationary Compression Ignition Internal Combustion Engines; 40 CFR part 60, subpart A; 40 CFR part 60, subpart IIII; was approved on 08/19/2009; OMB Number 2060–0590; expires on 08/31/2012; Approved without change.

EPA ICR Number 0997.09; NSPS for Petroleum Dry Cleaners; 40 CFR part 60, subpart A; 40 CFR part 60, subpart JJJ; was approved on 08/19/2009; OMB Number 2060–0079; expires on 08/31/2012; Approved without change.

EPA ICR Number 2344.01; Auto-Body Compliance Assessment Pilot Project (New); was approved on 08/19/2009; OMB Number 2020–0034; expires on 08/31/2012; Approved with change.

EPA ICR Number 1891.05; NESHAP for Publicly Owned Treatment Works; 40 CFR part 63, subpart A; 40 CFR part 63, subpart VVV; was approved on 08/19/2009; OMB Number 2060–0428; expires on 08/31/2012; Approved without change.

EPA ICR Number 1995.04; NESHAP for Coke Oven Pushing Quenching and Battery Stacks; 40 CFR part 63, subpart CCCCC; 40 CFR part 63, subpart A ; was approved on 08/19/2009; OMB Number 2060–0521; expires on 08/31/2012; Approved without change.

EPA ICR Number 1904.05; The Sun Wise School Program (Change); was approved on 08/20/2009; OMB Number 2060–0439; expires on 02/28/2011; Approved with change.

EPA ICR Number 0261.16; Notification of Regulated Waste Activity (Renewal); 40 CFR 264.11; 40 CFR 262.12; 40 CFR 263.11; 40 CFR 266.21–266.23; 40 CFR 266.70; 40 CFR 266.80; 40 CFR 266.100–266.103; 40 CFR 266.108; 40 CFR 270.1; 40 CFR 273.54; 40 CFR 273.60; 40 CFR 279.42; 40 CFR 279.51; 40 CFR 279.62; 40 CFR 279.73; was approved on 08/20/2009; OMB Number 2050–0028; expires on 08/31/2012; Approved without change.

EPA ICR Number 1571.09; General Hazardous Waste Facility Standards (Renewal); 40 CFR parts 264, 265 and 270; was approved on 08/20/2009; OMB Number 2050–0120; expires on 08/31/2012; Approved without change.

EPA ICR Number 1617.06; Servicing of Motor Vehicle Air Conditioners (Renewal); 40 CFR 82.30; was approved on 08/27/2009; OMB Number 2060–0247; expires on 08/31/2012; Approved without change.

EPA ICR Number 1613.03; Data Reporting Requirements for State and Local Vehicle Emission Inspection and Maintenance (I/M) Programs (Renewal); 40 CFR part 51, subpart S; was approved on 08/27/2009; OMB Number 2060–0252; expires on 08/31/2012; Approved without change.

EPA ICR Number 0783.54; Motor Vehicle Emissions and Fuel Economy Compliance: Light Duty Vehicles, Light Duty Trucks, and Highway Motorcycles (Renewal); 40 CFR part 600; 40 CFR part 86, subparts E and F; 40 CFR 86.1845–86.1848; 40 CFR parts 85 and 86; 40 CFR 85.1901–85.1908; was approved on 08/31/2009; OMB Number 2060–0104; expires on 08/31/2012; Approved without change.

EPA ICR Number 0152.09; Notice of Arrival of Pesticides and Devices (FIFRA); 19 CFR 12.112; was approved on 08/31/2009; OMB Number 2070–0020; expires on 08/31/2012; Approved without change.

Comment Filed

EPA ICR Number 2352.01; NESHAP for Asphalt Processing and Asphalt Roofing Manufacturing; in 40 CFR part 63, subpart AAAAAA; OMB filed comment on 08/11/2009.

EPA ICR Number 2354.01; National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing; in 40 CFR part 63, subpart DDDDDDD; OMB filed comment on 08/18/2009.

EPA ICR Number 2356.01; NESHAP for Chemical Preparations Industry; in 40 CFR part 63, subpart BBBBBBB; OMB filed comment on 08/18/2009.

EPA ICR Number 2321.01; Waste Energy Recovery Registry (Proposed Rule); in 40 CFR part 1200; OMB filed comment on 08/17/2009.

EPA ICR Number 2358.01; Nitrogen Oxides Ambient Air Monitoring (Proposed Rule); in 40 CFR part 58; OMB filed comment on 08/17/2009.

Disapproved

EPA ICR Number 2299.01; Tribal Capacity: Determining the Capability to Participate in the National Environmental Information Exchange Network Program; was disapproved by OMB on 08/17/2009.

Withdrawn and Continue

EPA ICR Number 2297.01; Use of Consumer Research in Developing Improved Labeling for Pesticide Products; Withdrawn from OMB on 08/03/2009.

Dated: September 2, 2009.

John Moses,

Director, Collections Strategies Division.

[FR Doc. E9–21710 Filed 9–8–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8954–8]

Meeting of the Mobile Sources Technical Review Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Mobile Sources Technical Review Subcommittee (MSTRS) will meet in October 2009. The MSTRS is a subcommittee under the Clean Air Act Advisory Committee. This is an open meeting. The meeting will include discussion of current topics and presentations about activities being conducted by EPA's Office of Transportation and Air Quality. The preliminary agenda for the meeting and any notices about change in venue will be posted on the Subcommittee's Web site: *http://www.epa.gov/air/caaac/mobile_sources.html.* MSTRS listserver subscribers will receive notification when the agenda is available on the Subcommittee Web site. To subscribe to the MSTRS listserver, send a blank e-mail to *lists-mstrs@lists.epa.gov*.

DATES: Tuesday October 6, 2009 from 9 a.m. to 5 p.m.. Registration begins at 8:30 a.m.

ADDRESSES: The meeting will be held at the Crystal Gateway Marriott Hotel, 1700 Jefferson Davis Highway, Arlington, VA 22201, Phone 703–920–3230. The hotel is located near the Crystal City Metro Station and is a short cab ride from Reagan National Airport.

FOR FURTHER INFORMATION CONTACT:

For technical information: John Guy, Designated Federal Officer, Transportation and Regional Programs Division, Mailcode 6403J, U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460; Ph: 202–343–9276; e-mail: *guy.john@epa.gov.*

For logistical and administrative information: Ms. Cheryl Jackson, U.S. EPA, Transportation and Regional Programs Division, Mailcode 6405J, U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460; 202–343–9653; e-mail: *jackson.cheryl@epa.gov.*

Background on the work of the Subcommittee is available at: *http://www.epa.gov/air/caaac/mobile_sources.html.* Individuals or organizations wishing to provide comments to the Subcommittee should submit them to Mr. Guy at the address above by September 30, 2009. The Subcommittee expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

SUPPLEMENTARY INFORMATION: During the meeting, the Subcommittee may also hear progress reports from some of its workgroups as well as updates and announcements on activities of general interest to attendees.

For Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Mr. Guy or Ms. Jackson (see above). To request accommodation of a disability, please contact Mr. Guy or Ms. Jackson, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: September 2, 2009.

Lori Stewart,

Acting Director, Office of Transportation and Air Quality.

[FR Doc. E9–21709 Filed 9–8–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2009–0688; FRL–8954–5]

Board of Scientific Counselors, Computational Toxicology Subcommittee Meetings—Fall 2009

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meetings.

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 two meetings of the Board of Scientific Counselors (BOSC) Computational Toxicology Subcommittee.

DATES: The first meeting (via teleconference) will be held on Friday, September 25, 2009, from 12 noon to 1 p.m. The second meeting (face-to-face) will take place on Tuesday, September 29, 2009, from 12:30 p.m. to 6:15 p.m.,

and continue on Wednesday, September 30, 2009 from 8 a.m. to 3:30 p.m. All times noted are Eastern time. The meetings may adjourn early if all business is finished. Requests for the draft agenda or for making oral presentations at the meetings will be accepted up to one business day before each meeting.

ADDRESSES: Participation in the conference call 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 Lorelei Kowalski, whose contact information is listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

The face-to-face meeting will be held at the Hilton Raleigh-Durham Airport at Research Triangle Park, 4810 Page Creek Lane, Durham, North Carolina 27703. Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2009–0688, by one of the following methods:

- *http://www.regulations.gov:* Follow the online 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–2009–0688.
- *Fax:* Fax comments to: (202) 566–0224, Attention Docket ID No. EPA–HQ–ORD–2009–0688.
- *Mail:* Send comments by mail to: Board of Scientific Counselors, Computational Toxicology Subcommittee Meetings—Fall 2009 Docket, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–ORD–2009–0688.
- *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–2009–0688. *Note:* This is not a mailing address. Such deliveries are only accepted during the center'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–2009–0688. 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, Computational Toxicology Subcommittee Meetings—Fall 2009 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: Lorelei Kowalski, 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) 564–3408; via fax at: (202) 565–2911; or via e-mail at: *kowalski.lorelei@epa.gov*.

SUPPLEMENTARY INFORMATION:

General Information

Any member of the public interested in receiving a draft BOSC agenda or making a presentation at the meetings may contact Lorelei Kowalski, the Designated Federal Officer, via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section above. In general, each individual making an oral presentation will be limited to a total of three minutes.

Proposed agenda items for the meetings include, but are not limited to: *teleconference:* introduction to ORD and the National Center for Computational Toxicology (for new subcommittee members); discussion of the draft charge for the review; and preparation for the face-to-face meeting; *face-to-face meeting:* overview, update, and testimonials on the Computational Toxicology Research Program; poster sessions, including posters on informatics, exposure science, high throughput screening, toxicity predictions, virtual tissues, and uncertainty analysis; and discussion of the draft letter report. The meetings are open to the public.

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Lorelei Kowalski at (202) 564–3408 or *kowalski.lorelei@epa.gov*. To request accommodation of a disability, please contact Lorelei Kowalski, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: September 1, 2009.

Fred Hauchman,

Director, Office of Science Policy.

[FR Doc. E9–21714 Filed 9–8–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collections to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and

renewal of the collections of information described below.

DATES: Comments must be submitted on or before October 9, 2009.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *E-mail: comments@fdic.gov.*

Include the name of the collection in the subject line of the message.

- *Mail:* Leneta G. Gregorie (202–898–3719), Counsel, Room F–1064, 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 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

All comments should refer to the relevant OMB control number. 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, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta Gregorie, at the address identified above.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collections of information:

1. *Title:* Activities and Investments of Insured State Banks.

OMB Number: 3064–0111.

Form Numbers: None.

Frequency of Response: On occasion.

Affected Public: Insured State nonmember banks.

Estimated Number of Respondents: 110.

Estimated Time per Response: 8 hours.

Total Annual Burden: 880 hours.

General Description of Collection: With certain exceptions, section 24 of the FDI Act (12 U.S.C. 1831a) limits the direct equity investments of state chartered banks to equity investments that are permissible for national banks. In addition, the statute prohibits an insured state bank from directly engaging as principal in any activity that is not permissible for a national bank or indirectly through a subsidiary in an activity that is not permissible for a subsidiary of a national bank unless the bank meets its minimum capital requirements and the FDIC determines that the activity does not pose significant risk to the Deposit Insurance Fund. The FDIC can make such a determination for exception by regulation or by order. The FDIC's implementing regulation for section 24 is 12 CFR part 362. It details the activities that insured state nonmember banks or their subsidiaries may engage in, under certain criteria and conditions, and identifies the information that banks must furnish to the FDIC in order to obtain the FDIC's approval or non-objection.

2. *Title:* Mutual-to-Stock Conversions of State Savings Banks.

OMB Number: 3064–0117.

Form Numbers: None.

Frequency of Response: On occasion.

Affected Public: Insured State chartered savings banks that are not members of the Federal Reserve System proposing to convert from mutual to stock form of ownership.

Estimated Number of Respondents: 10.

Estimated Time per Response: 50 hours.

Total Annual Burden: 500 hours.

General Description of Collection: Sections 303.161 and 333.4 of Title 12 of the Code of Federal Regulations require State savings banks that are not members of the Federal Reserve System to file with the FDIC a notice of intent to convert to stock form and to provide copies of documents filed with State and Federal banking and/or securities regulators in connection with the proposed conversion.

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. All comments will become a matter of public record.

Dated at Washington, DC, this 2nd day of September, 2009.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E9–21689 Filed 9–8–09; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices, Acquisition of Shares of Bank or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. E9–21090 published on page 45450 of the issue for Wednesday, September 2 2009.

Under the Federal Reserve Bank of St. Louis heading, the entry for Robert E. Kirkland, Union City, Tennessee, is revised to read as follows:

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. Robert E. Kirkland, Union City, Tennessee, individually and as member of the Kirkland family control group, which consists of himself, REK, LP, Union City, Tennessee (Robert and Jenny Kirkland, as general partners); the Christopher R. Kirkland Revocable Trust (Christopher R. Kirkland, as trustee), Brentwood, Tennessee; Bedford F. Kirkland, Lebanon, Tennessee; and Macy Darnell Swensson, Cincinnati, Ohio; to individually acquire voting shares of Community First Bancshares, Inc., Union City, Tennessee. In addition, the Kirkland family control group has also applied to acquire voting shares of Community First Bancshares, Inc., Union City, Tennessee.

Comments on this application must be received by September 16, 2009.

Board of Governors of the Federal Reserve System, September 2, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–21565 Filed 9–8–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank

indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 2, 2009.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. CapGen Capital Group III LLC, and CapGen Capital Group III LP, both of New York, New York; to become bank holding companies by acquiring 10.2 percent of the voting shares of Seacoast Banking Corporation of Florida, and thereby indirectly acquire voting shares of Seacoast National Bank, both of Staurt, Florida.

B. Federal Reserve Bank of Atlanta (Steve Foley, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Banco de Sabadell, S.A., Sabadell, Spain; has applied to acquire 100 percent of the voting shares of Mellon United National Bank, Miami, Florida.

2. RMB Holdings, LLC, and ATB Management, LLC, both of Birmingham, Alabama; to acquire up to 35.45 percent of the voting shares of Americus Financial Services, Inc., and thereby indirectly acquire voting shares of Red Mountain Bank, N.A., both of Birmingham, Alabama.

C. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Klein Financial, Inc., Chaska, Minnesota; has applied to acquire 100 percent of the voting shares of Community Bank Plymouth, Plymouth, Minnesota.

Board of Governors of the Federal Reserve System, September 2, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–21564 Filed 9–8–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. 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 the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 22, 2009.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Bank Applications Officer) 33 Liberty Street, New York, New York 10045–0001:

1. Banco do Brasil, S.A., Brasilia, Brazil, and Caixa de Previdencia dos Funcionarios do Banco do Brasil, Rio De Janiero, Brazil; to engage in securities brokerage activities in the United States through Banco Votorantim Securities, Inc., Sao Paulo, Brazil, pursuant to sections 225.28(b)(6)(ii); (b)(6)(iii); (b)(6)(iv); (b)(7)(i); (b)(7)(ii); (b)(7)(iii) and (b)(7)(v) of Regulation Y.

Board of Governors of the Federal Reserve System, September 2, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–21563 Filed 9–8–09; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*http://www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 010977–062.

Title: Hispaniola Discussion Agreement.

Parties: Crowley Liner Services, and Seaboard Marine Ltd.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment deletes Tropical Shipping and Construction Co., Ltd. as a party to the agreement.

Agreement No.: 011279–026.

Title: Latin America Agreement.

Parties: ABC Discussion Agreement; Caribbean Shipowners Association; Central America Discussion Agreement; Compania Libra de Navegacion Uruguay S.A..; Hispaniola Discussion Agreement; Inland Shipping Services Association; Venezuelan Discussion Agreement; West Coast of South America Discussion Agreement; and Zim Integrated Shipping Services, Ltd.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment updates the membership of the various underlying parties.

Agreement No.: 012077.

Title: APL/Maersk Line Reciprocal Space Charter Agreement.

Parties: American President Lines, Ltd.; APL Co. Pte, Ltd.; and A.P. Moller Maersk A/S.

Filing Party: Eric. C. Jeffrey, Esq.; Counsel for APL; Goodwin Procter LLP; 901 New York Avenue, NW., Washington, DC 20001.

Synopsis: The agreement would authorize the parties to charter space to each other in the trade between the United States East Coast and Guatemala and Honduras.

By Order of the Federal Maritime Commission.

Dated: September 3, 2009.

Tanga S. FitzGibbon,

Assistant Secretary.

[FR Doc. E9–21681 Filed 9–8–09; 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 Transportation Intermediaries, 46 CFR part 515, effective on the corresponding date shown below:

License Number: 018529F.

Name: Egbert Sylvester Jeffers dba Eggi's Express Shipping.

Address: 1004 Halsey Street, Brooklyn, NY 11207.

Date Revoked: August 27, 2009.

Reason: Failed to maintain a valid bond.

License Number: 020818N.

Name: Logistics Inc. dba Logistics W.W. Inc. dba Infinity Freight Services.

Address: 8621 Bellanca Ave., Ste. 104B, Los Angeles, CA 90045.

Date Revoked: August 23, 2009.

Reason: Failed to maintain a valid bond.

License Number: 020141N.

Name: Vanguard International, Inc.

Address: 117 Lakewood Circle, San Mateo, CA 94402.

Date Revoked: August 27, 2009.

Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E9–21678 Filed 9–8–09; 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
018606N	All Merit Express, Inc., 19702 Miguel Ave., Cerritos, CA 90703	August 17, 2009.
016258N	International Freight Consolidators, Inc., 1160 N.W. 21st Terrace, Miami, FL 33127	July 30, 2009.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E9–21679 Filed 9–8–09; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants:

Waterview Logistics LLC, 2948 Shore Drive, Merrick, NY 11566. Officers: Thomas Leibman, Managing Member (Qualifying Individual), Joshua Liebman, Member.

Acher and Chex International, LLC dba A & C International, 123 Polaris Drive, Walkersville, MD 21793. Officer: Nchekwube O. Udeze, President (Qualifying Individual).

Oceanbridge Logistics, Inc., 9080 Telstar Ave., Ste. 329, El Monte, CA 91731. Officers: Xinyu Aka Mike Chen, President (Qualifying Individual), Ying Chen, Secretary.

WWT America LLC, 730 Del Oro Drive, Safety Harbor, FL 34695. Officer: Carlos F. Diaz, Member (Qualifying Individual).

Expedia Shippers & Logistics, Inc., 331 West 57th Street, Ste. 270, New York, NY 10019. Officer: Carlito Deleon, President (Qualifying Individual).

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants:

Continental Shipping Group, Inc., 670 S. 21st Street, Irvington, NJ 07111. Officer: Katarzyna Strojwas, Vice President (Qualifying Individual).

RLE International, Inc., 10101 Easy Bay Harbor Drive, Ste. 608, Bay Harbor, FL 33154. Officers: Ligia Estrada, President (Qualifying Individual), Rene J. Perez, Vice President.

Beagle Shipping Inc., 2801 Northwest 74th Ave., Ste. N–12, Miami, FL 33122. Officers: Marilyn Gutierrez, Corporate Secretary (Qualifying Individual), Ricardo J. Tovar, President.

Above & Beyond Freight Management, LLC, 600 Bayview Ave., Inwood, NY 11096. Officers: Patricia E. Noll, COO (Qualifying Individual), Andrew Redman, CEO.

New York Logistic Services, Inc., dba Global American Line, 3470 Rand Road, South Plainfield, NJ 07080. Officers: Ali Wajid, Sr. Vice President, Hussaini Syed Hamid, CEO, Maati Mohamed Abouel, President (Qualifying Individuals).

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants:

CJ GLS America, Inc., 5801 S. Malt Ave., Commerce, CA 90040. Officer: Shung Chul Jhun, Secretary (Qualifying Individual), Choon W. Leem, Chairman.

Streamline Logistics Limited Liability Company, 2025 E. Linden Ave., Linden, NJ 07035. Officer: Damian C. Mbadugha, Member (Qualifying Individual).

Falcon Global Edge, Inc., 88 Black Falcon Ave., Ste. 315, Boston, MA 02210. Officer: Gary Erickson, Dir. Of Marine Operations (Qualifying Individual).

Dated: September 3, 2009.

Tanga S. FitzGibbon,

Assistant Secretary.

[FR Doc. E9–21683 Filed 9–8–09; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Rescission of Order of Revocation

Notice is hereby given that the Order revoking the following license is being rescinded 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 Number: 019597N.

Name: United Cargo International, Inc.

Address: 30998 Huntwood Ave., #106 Hayward, CA 94544.

Order Published: FR: 07/29/09 (Volume 74, No. 144, Pg. 37711).

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E9–21680 Filed 9–8–09; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0372]

Agency Information Collection Activities; Proposed Collection; Comment Request; Environmental Impact Considerations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection contained in FDA regulations entitled ''Environmental Impact Considerations.''

DATES: Submit written or electronic comments on the collection of information by November 9, 2009.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of Information Management (HFA–710), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–796–3792.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Environmental Impact Considerations—21 CFR Part 25 (OMB Control Number 0910–0322)—Extension

FDA is requesting OMB approval for the reporting requirements contained in the FDA regulation ''Environmental Impact Considerations.'' The National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4347) states national environmental objectives and imposes upon each Federal agency the duty to consider the environmental effects of its actions. Section 102(2)(C) of NEPA requires the preparation of an environmental impact statement (EIS) for every major Federal action that will significantly affect the quality of the human environment. The FDA NEPA regulations are in part 25 (21 CFR part 25). All applications or petitions requesting agency action require the submission of a claim for a categorical exclusion or an environmental assessment (EA). A categorical exclusion applies to certain classes of FDA-regulated actions that usually have little or no potential to cause significant environmental effects and are excluded from the requirements to prepare an EA or EIS. Section 25.15(a) and (d) specifies the procedures for submitting to FDA a claim for a categorical exclusion. Extraordinary circumstances (§ 25.21), which may result in significant environmental impacts, may exist for some actions that are usually categorically excluded. An EA provides information that is used to determine whether an FDA action could result in a significant environmental impact. Section 25.40(a) and (c) specifies the content requirements for EAs for nonexcluded actions.

This collection of information is used by FDA to assess the environmental impact of agency actions and to ensure that the public is informed of environmental analyses. Firms wishing to manufacture and market substances regulated under statutes for which FDA is responsible must, in most instances, submit applications requesting approval. Environmental information must be included in such applications for the purpose of determining whether the proposed action may have a significant impact on the environment. Where significant adverse effects cannot be avoided, the agency uses the submitted information as the basis for preparing and circulating to the public an EIS, made available through a **Federal Register** document also filed for comment at the Environmental Protection Agency. The final EIS, including the comments received, is reviewed by the agency to weigh environmental costs and benefits in determining whether to pursue the proposed action or some alternative that would reduce expected environmental impact.

Any final EIS would contain additional information gathered by the agency's after the publication of the draft EIS, a copy of or a summary of the comments received on the draft EIS, and

the agency's responses to the comments, including any revisions resulting from the comments or other information. When the agency finds that no significant environmental effects are expected, the agency prepares a finding of no significant impact (FONSI).

Estimated Annual Reporting Burden for Human Drugs (including biologics in the Center for Drug Evaluation and Research)

Under § 312.23(a)(7)(iv)(e) (21 CFR 312.23(a)(7)(iv)(e)), 21 CFR 314.50(d)(1)(iii), and 21 CFR 314.94(a)(9)(i), each investigational new drug application (IND), new drug application (NDA), and abbreviated new drug application (ANDA) must contain a claim for categorical exclusion under § 25.30 or § 25.31 or an EA under § 25.40. In 2008, FDA received 2,550 INDs from 2,026 sponsors; 106 NDAs from 88 applicants; 2,856 supplements to NDAs from 615 applicants; 13 biologics license applications (BLAs) from 9 applicants; 206 supplements to BLAs from 64 applicants; 835 ANDAs from 165 applicants; and 4,143 supplements to ANDAs from 224 applicants. FDA estimates that it receives approximately 10,689 claims for categorical exclusions as required under § 25.15(a) and (d), and 20 EAs as required under § 25.40(a) and (c). Based on information provided by the pharmaceutical industry, FDA estimates that it takes sponsors or applicants approximately 8 hours to prepare a claim for a categorical exclusion and approximately 3,400 hours to prepare an EA.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN FOR HUMAN DRUGS[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
25.15(a) and (d)	3,171	3.37	10,686	8	85,488
25.40(a) and (c)	20	1	20	3,400	68,000
Total					153,488

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Estimated Annual Reporting Burden for Human Foods

Under 21 CFR 71.1, 171.1, 170.39, and 170.100, food additive petitions, color additive petitions, requests for exemption from regulation as a food additive, and submission of a food contact notification (FCN) for a food contact substance must contain either a claim of categorical exclusion under § 25.30 or § 25.32, or an EA under § 25.40. In 2008, FDA received 112 industry submissions. FDA received an annual average of 67 claims of categorical exclusions as required under § 25.15(a) and (d), and 45 EAs as required under § 25.40(a) and (c). FDA estimates that, on average, it takes petitioners, notifiers, or requestors approximately 3 hours to prepare a claim of categorical exclusion and approximately 210 hours to prepare an EA.

TABLE 2.—ESTIMATED ANNUAL REPORTING BURDEN FOR HUMAN FOODS[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
25.15(a) and (d)	40	1.7	68	3	204
25.40(a) and (c)	24	1.9	45	210	9,450
Total					9,654

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Estimated Annual Reporting Burden for Medical Devices

Under 21 CFR 814.20(b)(11), premarket approvals (PMAs) (original PMAs and supplements) must contain a claim for categorical exclusion under § 25.30 or § 25.34 or an EA under § 25.40. In 2008, FDA received approximately 39 claims (original PMAs and supplements) for categorical exclusions as required under § 25.15(a) and (d), and 0 EAs as required under § 25.40(a) and (c). Based on information provided by less than 10 sponsors, FDA estimates that it takes approximately 6 hours to prepare a claim for a categorical exclusion and an unknown number of hours to prepare an EA.

TABLE 3.—ESTIMATED ANNUAL REPORTING BURDEN FOR MEDICAL DEVICES[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
25.15(a) and (d)	39	1	39	6	234
25.40(a) and (c)	1	1	1	1	1
Total					235

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Estimated Annual Reporting Burden for Biological Products in the Center for Biologics Evaluation and Research

Under § 312.23(a)(7)(iv)(e) and 601.2(a), INDs and BLAs must contain a claim for categorical exclusion under § 25.30 or § 25.31 or an EA under § 25.40. In 2008, FDA received 245 INDs from 180 sponsors, 28 BLAs from 13 applicants, and 972 BLA supplements to license applications from 173 applicants. FDA estimates that approximately 10 percent of these supplements would be submitted with a claim for categorical exclusion or an EA.

FDA estimates that it received approximately 370 claims for categorical exclusion as required under § 25.15(a) and (d), and 2 EAs as required under § 25.40(a) and (c). Based on information provided by industry, FDA estimates that it takes sponsors and applicants approximately 8 hours to prepare a claim for categorical exclusion and approximately 3,400 hours to prepare an EA for a biological product.

TABLE 4.—ESTIMATED ANNUAL REPORTING BURDEN FOR BIOLOGICAL PRODUCTS[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
25.15(a) and (d)	210	1.76	370	8	2,960
25.40(a) and (c)	2	1	2	3,400	6,800
Total					9,760

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Estimated Annual Reporting Burden for Animal Drugs

Under 21 CFR 514.1(b)(14), new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs); 21 CFR 514.8(a)(1) supplemental NADAs and ANADAs; 21 CFR 511.1(b)(10) investigational new animal drug applications (INADs); and 21 CFR 571.1(c) food additive petitions must contain a claim for categorical exclusion under § 25.30 or § 25.33 or an EA under § 25.40. In 2008, FDA's Center for Veterinary Medicine received approximately 676 claims for categorical exclusion as required under § 25.15(a) and (d), and 8 EAs as required under § 25.40(a) and (c). FDA estimates that it takes sponsors/applicants approximately 5 hours to prepare a claim for a categorical exclusion and an average of 2,160 hours to prepare an EA.

TABLE 5.—ESTIMATED ANNUAL REPORTING BURDEN FOR ANIMAL DRUGS[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
25.15(a) and (d)	65	10.4	676	5	3,380
25.40(a) and (c)	6	1.3	8	2,160	17,280
Total					20,660

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 6.—COMBINED ESTIMATED ANNUAL TOTAL BURDEN HOURS FOR ALL CENTERS

Total	193,797

Dated: August 28, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–21724 Filed 9–8–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10295]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Center for Medicare and Medicaid Services, Department of Health and Human Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, 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.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting emergency approval under 5 CFR 1320.13(a)(2)(iii), as we believe that the use of normal clearance procedures is reasonably likely to cause a statutory deadline to be missed for annual reports to Congress as required under sections 5001 and 5004 of the Recovery Act.

1. Type of Information Collection Request: New collection; *Title of Information Collection:* Recovery Act—Reporting Requirements for States Under FMAP Increase and TMA Provisions; *Use:* The American Recovery and Reinvestment Act of 2009 (Recovery Act), Public Law 111–5, requires that States submit quarterly reports to the Secretary of Health and Human Services in accordance with section 5001 Temporary Increase of Medicaid Federal Medical Assistance Percentage (FMAP) and section 5004(d) Extension of Transitional Medical Assistance (TMA). The reports under section 5001 are required for the period of October 1, 2008–September 30, 2011. The reports under section 5004 are required beginning on July 1, 2009 until the Federal authority for TMA coverage sunsets (now scheduled to sunset on December 31, 2010). Each State Medicaid agency will submit its quarterly reports to the appropriate Regional Office of CMS. The reports will be compiled and summarized for annual reports to Congress. *Form Number:* CMS–10295 (OMB#: 0938–New); *Frequency:* Reporting—Quarterly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 50; *Total Annual Responses:* 200; *Total Annual Hours:* 600. (For policy questions regarding this collection contact Richard Strauss at 410–786–2019. For all other issues call 410–786–1326.)

CMS is requesting OMB review and approval of this collection by *October 5, 2009,* with a 180-day approval period. Written comments and recommendation will be considered from the public if received by the individuals designated below by the noted deadline below.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address 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 October 9, 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 (CMS–10295), Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

and,

OMB Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, New Executive Office Building, Room 10235, Washington, DC 20503. *Fax Number:* (202) 395–6974.

Dated: August 31, 2009.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E9–21674 Filed 9–8–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0386]

Draft Guidance for Industry and Food and Drug Administration Staff; Establishing the Performance Characteristics of In Vitro Diagnostic Devices for the Detection or Detection and Differentiation of Human Papillomaviruses; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Establishing the Performance Characteristics of In Vitro Diagnostic Devices for the Detection or Detection and Differentiation of Human Papillomaviruses.'' FDA is issuing this draft guidance to inform industry and agency staff of its recommendations for analytical and clinical performance studies to support premarket submissions for in vitro diagnostic devices intended for the detection or detection and differentiation of human papillomaviruses.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115 (g)(5)), to ensure that the agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written or electronic comments on the draft guidance by December 8, 2009.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled ''Establishing the Performance Characteristics of In Vitro Diagnostic Devices for the Detection or Detection and Differentiation of Human Papillomaviruses'' to the Division of Small Manufacturers, International, and Consumer Assistance, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 4613, Silver Spring, MD 20993. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Kate Simon, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 5552, Silver Spring, MD 20993, 301–796–6204.

SUPPLEMENTARY INFORMATION:

I. Background

This draft guidance document recommends studies that may be used to establish the analytical and clinical performance of in vitro diagnostic devices (IVDs) for the detection or detection and differentiation of human papillomaviruses (HPV) in cervical specimens. This guidance is limited to studies intended to establish the performance characteristics of in vitro diagnostic HPV devices that are used in conjunction with cervical cytology for cervical cancer screening. It does not

address HPV devices that are intended to be used independent of a cervical cytology result.

The one product code established for this HPV DNA detection device is code MAQ, class III. The recommendations in this guidance apply to HPV diagnostic devices that detect HPV nucleic acid (not only HPV DNA, but HPV RNA, as well). Many of the recommendations will also apply to HPV detection devices that utilize targets other than HPV nucleic acid (such as HPV protein). This guidance therefore may encompass future HPV product codes beyond the one listed. Because HPV diagnostic devices are postamendment devices, they are automatically classified as class III under section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)(1)).

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized will represent the agency's current thinking on establishing the performance characteristics of in vitro diagnostic devices for the detection or detection and differentiation of human papillomaviruses. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. To receive ''Establishing the Performance Characteristics of In Vitro Diagnostic Devices for the Detection or Detection and Differentiation of Human Papillomaviruses,'' you may either send an e-mail request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 1699 to identify the guidance you are requesting.

CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH Web site may be accessed at *http://www.fda.gov/cdrh*. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/cdrh/guidance.html*. Guidance documents are also available at *http://www.regulations.gov*.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations and guidance documents. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 814 have been approved under OMB Control No. 0910–0231; the collections of information in 21 CFR part 812 have been approved under OMB Control No. 0910–0078; and the collections of information in 21 CFR 809.10 have been approved under OMB Control No. 0910–0485.

V. Comments

Interested persons may submit to the Division of Dockets Management (see ADDRESSES), written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, 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. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 26, 2009.

Catherine M. Cook,

Associate Director for Regulations and Policy.

[FR Doc. E9–21725 Filed 9–8–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0260]

Guidance for Industry: Questions and Answers Regarding the Reportable Food Registry as Established by the Food and Drug Administration Amendments Act of 2007; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance document entitled ''Questions and Answers Regarding the Reportable Food Registry as Established by the Food and Drug Administration Amendments Act of 2007.'' The document provides guidance to the industry in complying with the Reportable Food Registry requirements prescribed by the Food and Drug Administration Amendments Act of 2007 (FDAAA).

DATES: Submit written or electronic comments on the guidance at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Office of Food Defense, Communication and Emergency Response (HFS–005), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

Submit written comments on the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments on the guidance to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Faye Feldstein, Center for Food Safety and Applied Nutrition (HFS–005), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 1–888–SAFEFOOD.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 11, 2009 (74 FR 27803), FDA announced the availability of a draft guidance entitled ''Questions and Answers Regarding the Reportable Food Registry as Established by the Food and Drug Administration Amendments Act of 2007'' and gave interested parties an opportunity to submit comments by July 27, 2009. The agency reviewed and evaluated these comments and has modified the guidance where appropriate.

The guidance contains questions and answers intended to assist those parties responsible for complying with the Reportable Food Registry requirements prescribed by the Food and Drug Administration Amendments Act of 2007 (Public Law 110–085), including: (1) How, when, and where to submit reports to FDA; (2) who is required to submit reports to FDA; (3) what is required to be submitted to FDA; and (4) what may be required when providing notifications to other persons in the supply chain of an article of food.

FDA is issuing this guidance as level 1 guidance consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternate approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in this guidance were approved under OMB Control Nos. 0910–0643 and 0910–0645. This guidance also refers to previously approved collections of information found in FDA regulations. The collection of information in 21 CFR 7.46 has been approved under OMB Control No. 0910–0249.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, 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. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the guidance at *http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/default.htm* or *http://www.regulations.gov*.

Dated: September 3, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–21713 Filed 9–8–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0664]

Oncologic Drugs Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA) is announcing an amendment to the notice of a meeting of the Oncologic Drugs Advisory Committee. This meeting was announced in the **Federal Register** of August 25, 2009 (74 FR 42907). The amendment is being made to reflect a change in the *Agenda* portion of the document. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Nicole Vesely, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–6793, FAX: 301–827–6776, e-mail: *nicole.vesely@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512542. Please call the Information Line for up-to-date information on this meeting.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 25, 2009, FDA announced that a meeting of the Oncologic Drugs Advisory Committee would be held on October 6, 2009. On page 42907, in the second column, the *Agenda* portion of the document is changed to read as follows:

Agenda: The committee will discuss new drug application (NDA) 021–825, with the proposed trade name FERRIPROX (deferiprone) film-coated tablets, manufactured by ApoPharma Inc. This product is an iron chelating agent, which is a drug that binds with iron in the body and helps to make elimination of iron easier, reducing iron build-up. There are two specific proposed indications (uses) of FERRIPROX: (1) For the treatment of iron overload, or build-up in patients with transfusion-dependent thalassemia, an inherited blood disorder that necessitates frequent transfusion of normal blood which can lead to iron build-up due to the iron content in the blood a patient receives; and (2) for the treatment of iron overload in patients with other transfusion-dependent anemias (other blood disorders that require frequent transfusions) for whom the use of other iron chelating agents has been considered inappropriate.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to the advisory committees.

Dated: September 2, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–21556 Filed 9–8–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0664]

Cellular, Tissue and Gene Therapies Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Cellular, Tissue and Gene Therapies Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on October 9, 2009, from 8:30 a.m. to approximately 4:30 p.m.

Location: Bethesda Marriott, 5151 Pooks Hill Rd., Bethesda, MD.

Contact Person: Gail Dapolito or Danielle Cubbage, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20853, 301–827–1289, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512389. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On October 9, 2009, in open session, the Committee will discuss ISOLAGEN THERAPY, BLA 125348, Isolagen Technologies, Inc., for moderate to severe nasolabial fold wrinkles. Nasolabial fold wrinkles are the two skin folds that run from each side of the nose to the corners of the mouth.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee

meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before October 2, 2009. Oral presentations from the public will be scheduled between approximately 11:30 a.m. and 12:30 p.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 1, 2009. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 2, 2009.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Gail Dapolito at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 2, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–21557 Filed 9–8–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

[System Number 09–17–0003]

Privacy Act of 1974; Report of an Altered System of Records Medical Staff Credentials and Privileges Records

AGENCY: Department of Health and Human Services (HHS), Indian Health Service (IHS).

ACTION: Amendment of one altered Privacy Act system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4), the IHS has amended and is publishing the proposed alteration of a system of records, System No. 09–17–0003, ''Medical Staff Credentials and Privileges Records.'' The amended and altered system of records makes several administrative revisions which includes the deletion of the Social Security Numbers (SSNs) language to comply with the Office of Management and Budget (OMB) Memorandum (M)07–16, Safeguarding Against and Responding to the Breach of Personally Identifiable Information (May 22, 2007); and the HHS Directive Memorandum of October 6, 2008 to all Operating Division Heads to develop and execute a plan to eliminate the unnecessary collection and use of SSNs; and the inclusion of a new routine use to comply with OMB (M)07–16 and the HHS Memorandum dated September 19, 2007 to incorporate Notification of Breach Routine Use language; and the update of the Appendix 1 of the SOR.

DATES: *Effective Dates:* IHS filed an altered system report with the Chair of the House Committee on Oversight and Government Reform, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, OMB on September 9, 2009. To ensure that all parties have adequate time in which to comment, the altered SOR will become effective 40 days from the publication of the notice, or from the date it was submitted to OMB and the Congress, whichever is later, unless IHS receives comments on all portions of this notice.

ADDRESSES: The public should address comments to: Mr. William Tibbitts, IHS Privacy Act Officer, Division of Regulatory Affairs, Office of Management Services, 801 Thompson Avenue, TMP Suite 450, Rockville, MD 20852–1627; call non-toll free (301) 443–1116; send via facsimile to (301) 443–2316, or send your e-mail requests, comments, and return address to: *William.Tibbitts@ihs.qov*.

FOR FURTHER INFORMATION CONTACT: Contact Paul Fowler, D.O., J.D., IRS Risk Management Officer, Office of Clinical and Preventive Services, Suite 331, 801 Thompson Avenue, Rockville, Maryland 20852 or via the Internet at *Paul.Fowler@ihs.gov.*

SUPPLEMENTARY INFORMATION: As required by the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4), this document sets forth the amendment of the proposed alteration of a system of records maintained by the IRS. The purpose of altering System No. 09–17–0003, ''Medical Staff Credentials and Privileges Records,'' is to enable IRS to reflect current program changes, statutory and implementation changes. The exclusion of SSN language; the inclusion of a new routine use and revision or modification of the IHS addresses in Appendix 1 is necessary to this system of records.

Dated: August 28, 2009.

Yvette Roubideaux,

Director of Indian Health Service.

09–17–0003

SYSTEM NAME:

Indian Health Service Medical Staff Credentials and Privileges Records, HHS/IHS/OCPS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Each IHS Area Office and each IHS Service Unit (*see* Appendix 1). Records may also be located at hospitals and offices of health care providers who are under contract to IHS. A current list of contractor sites is a available by writing to the appropriate System Manager (Area or Service Unit Director) at the address shown in Appendix 1.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prospective, current and former IHS medical staff members. The term IHS medical staff includes fully licensed individuals permitted by law to provide patient care services independently and without concurrent professional direction or supervision, within the scope of his/her license and in accordance with individually granted clinical privileges. The IHS medical staff includes physicians (M.D. and D.O.) and dentists and may include other health care practitioners such as psychologists, optometrists, podiatrists, audiologists, and, in some States, certified nurse midwives. Types of

assignment categories of current and former IHS medical staff members include the following:

Provisional—Those new members of the medical staff who are serving a required initial probationary period, as specified in the local medical staff bylaws. During this time, their qualifications for membership on the active or courtesy IHS medical staff are assessed.

Active—Those members who are Federal employees and/or spend at least fifty percent of their professional time providing patient care related services in the facility.

Temporary—Those members who provide services on a short-term basis or have applied for active medical staff membership and are awaiting a full credential review.

Courtesy or Associate—Those members who generally provide services on a periodic or episodic basis (*e.g.,* consultants for specialty clinics).

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, SSN, IHS medical staff membership and privileges applications and associated forms, employment data, liability insurance coverage, credentialing history of licensed health professionals, personal, educational, and demographic background information, professional performance information consisting of continuing education, performance awards, and adverse or disciplinary actions, and evaluations and approvals completed by IHS medical staff reviewers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Records Act (44 U.S.C. 2901), Privacy Act of 1974, as amended (5 U.S.C. 552a), Indian Self Determination and Education and Assistance Act (25 U.S.C. 450), Snyder Act (25 U.S.C. 13), Indian Health Care Improvement Act (25 U.S.C. 1601 *et seq.*), Indian Health Service Transfer Act (42 U.S.C. 2001–2004).

PURPOSE(S):

The purposes of this system are:

1. To ensure that IHS medical staff members are qualified, competent and capable of delivering quality health services consistent with those of the medical community at large and that they are granted privileges commensurate with their training and competence and with the ability of the facility to provide adequate support equipment, services, and staff.

2. To inform health care practitioner(s) and staff of health care facilities, State or county health professional societies or licensing boards to whom the subject individual may apply for clinical privileges, membership or licensure, of the subject individuals professional competence, character and ethical qualifications. This may include information regarding drug or alcohol abuse or dependency. Within the Department such releases may be made to personnel staffs of HHS Regional Offices.

3. To provide adverse health care practice information to the National Practitioner Data Bank-Healthcare Integrity and Protection Data Bank (NPDB–HIPDB) established under Title IV of Public Law 99–660, the Health Care Quality Improvement Act of 1986, and Section 221(a) of Public Law 104–191, the Heath Insurance Portability and Accountability Act of 1996. The purpose of such a release is to provide information concerning a current or former IHS medical staff member whose professional health care activity failed to conform to generally accepted standards of professional medical practice.

4. To provide health care practice information concerning current or former members of the IHS medical staff with Commissioned Corps status to the Division of Commissioned Personnel, U.S. Public Health Service, so that an informed decision may be made concerning the promotion, retention, or reassignment of the subject individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Records may be disclosed to organizations authorized to conduct evaluation studies concerning the delivery of health care services by the IHS (*e.g.,* Joint Commission on the Accreditation of Healthcare Organizations).

2. IHS may disclose records consisting of name, employment history and any professional qualification information concerning medical staff membership and privileges, professional competence, clinical judgment and personal character to a State or local government health professional licensing board, to the Federation of State Medical Boards, to the NPDB–RIPDB established under Title IV of Public Law 99–660 and Section 221(a) of Public Law 104–191, and/or to a similar entity which has the authority to maintain records concerning the issuance, retention or revocation of licenses or registrations necessary to practice a health professional occupation or specialty.

The purpose of this disclosure is to inform medical profession licensing boards and appropriate entities about the health care practices of a current, terminated, resigned, or retired IHS medical staff member whose professional health care activity significantly failed to conform to generally accepted standards of professional medical practice. This will be done within the guidelines for notice, hearing, and review as delineated in the medical staff bylaws for the IHS facility and/or within other HHS or IRS regulations or policies.

3. IHS may disclose biographic data and information supplied by potential applicants to (a) references listed on the IHS medical staff and/or privileges application and associated forms for the purpose of evaluating the applicant's professional qualifications, experience, and suitability, and (b) a State or local government health profession licensing board, to a health-related professional organization, to the Federation of State Medical Boards, and to the NPDB HIPDB established under Title IV of Public Law 99–660 and Section 221(a) of Public Law 104–191 or a similar entity for the purpose of verifying that all claimed background and employment data are valid and all claimed credentials are current and in good standing.

4. Records may be disclosed to other Federal agencies (including the Office of Personnel Management for subject individuals applying for or maintaining Civil Service appointments)/to State and local governmental. agencies, and to organizations in the private sector to which the subject individual applies for clinical privileges, membership or licensure for the purpose of documenting the qualifications and competency of the subject individual to provide health services in his/her health profession based on the individual's professional performance while employed by the IHS.

5. The Department may disclose information from this system of records to the Department of Justice (DOJ), or to a court or other tribunal, when (a) HHS, or any component thereof, or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the DOJ (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the DOJ, the court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental

party, provided, however, that in each case, HH determines that such disclosure is compatible with the purpose for which the records were collected.

6. Records may be disclosed to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual.

7. In the event that a system of records maintained by the IHS to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, State, or local, charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

8. To appropriate Federal agencies and Department contractors that have a need to know the information for the purpose of assisting the Department's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records, and the information disclosed is relevant and necessary for that assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and computer-based or electronic files.

RETRIEVABILITY:

Indexed and retrieved by name, and any other identifying numbers necessary to establish the identity of an individual whose record is maintained in the system of records.

SAFEGUARDS:

1. *Authorized Users:* Access is limited to authorized personnel for use in the performance of their official duties. Authorized personnel include: Physician Recruitment and other Health Professions Branch Staff and Area Governing Board Members at IHS Area Offices, and Service Unit Directors, Clinical Directors and members of the Credentials and Privilege Committee of each IHS Service Unit. At each location where records in this system will be maintained, a list of personnel or categories of personnel having an official need-to-know has been developed and is maintained.

2. *Physical Safeguards:* Records are kept in locked metal filing cabinets or in locked desk drawers in secured rooms at all times when not actually in use during working hours and at all times during non-working hours. Record storage areas, including file cabinets and desks, are not left unattended or unlocked during office hours, including lunch hours. Computer-based or electronic records are password protected security and any additional internal security for database (linked or unlinked).

3. *Procedural Safeguards:* Persons who have an official need-to-know are entrusted with records from this system of records and are instructed to safeguard the confidentiality of these records and to destroy all copies or to return such records when the need to know has expired. Instructions include the statutory penalties for noncompliance. Proper charge-out procedures are followed for the removal of records from the area in which they are maintained. Before an employee who will control disclosure of records can work with the records (*i.e.,* employees who report to the system manager) the system manager or designee ensures that the employee has received training in the safeguards applicable to the records and is aware of the actions to take to restrict disclosure. When copying records for authorized purposes, care is taken to ensure that any imperfect pages are not left in the reproduction room where they can be read but are destroyed or obliterated.

4. *Implementation Guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf:45–13 of the General Administration Manual; DHHS, ''Automated Information Systems Security Program Handbook,'' as amended; DHHS IRM Policy HHS–IRM–2000–0005, ''IRM Policy for IT Security for Remove Access; OMB Circular A–130 ''Management of Federal Information Resources''; and E–Government Act of 2002 (Pub. L. 107–347, 44 U.S.C. Ch 36).

5. *Retention and disposal:* Records are maintained by IHS for at least ten years after the individual's termination of employment or association with IHS. Records of unsuccessful applicants for medical staff membership will be retained for three years after his/her rejection. After these periods of retention expire, records are destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

See Appendix 1.

POLICY COORDINATING OFFICIAL:

Director, Office of Clinical and Preventive Services, IHS, 801 Thompson Avenue, Suite 300, Rockville, Maryland 20852. The IHS Clinical Directors at all IHS Service Units listed in Appendix 1 are System Managers. IHS medical staff credentials and privileges files are stored at these locations. Other addresses listed in Appendix 1 are locations at which all or parts of these records may also be stored (Physician Recruiter at IRS Area Offices). Post Office box designations appearing in Appendix 1 should be specified when making requests by mail.

NOTIFICATION PROCEDURE:

Requests must be made to the appropriate System Manager (Clinical Director for the appropriate Service Unit) listed in Appendix 1.

REQUESTS BY MAIL:

Requests for information and/or access to records received by mail must contain information providing the identity of the writer and a reasonable description of the record desired. Written requests must contain, at a minimum, the name, signature, and address of the requester, and for unsuccessful applicants the date when the application was submitted, and for current or former IHS health care providers the dates and locations of service. We may request additional identification when we hold records for different persons with the same name or where an apparent discrepancy exists between information contained in the record and that provided by the individual requesting access to the record.

OTHER NAMES USED:

Where an individual is seeking to obtain information about himself/herself which may be retrieved by a different name than his/her current name, he/she shall be required to produce evidence to verify that he/she is the person whose record he/she seeks.

REQUESTS IN PERSON:

A subject individual who appears in person at a specific location (where he or she currently works or formerly worked) seeking access or disclosure of records contained in this system of records relating to him/her shall provide the information described in ''Requests by mail'' (above) and at least one piece of tangible identification such as a driver's license or passport.

REQUESTS BY TELEPHONE:

Since positive identification of the caller cannot be established, telephone requests are not honored.

RECORD ACCESS PROCEDURES:

SAME AS NOTIFICATION PROCEDURE:

Requesters should also provide a reasonable description of the record being sought. Requesters may also request an accounting of disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Write to the appropriate Service Unit Clinical Director at the address specified in Appendix 1 and reasonably identify the record, specify the information being contested, and state the corrective action sought, and the reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Subject individual, IRS health care personnel, references supplied by the subject individual, professional societies or associations, specialty boards, colleges and universities attended by the subject individual, former employers, health facilities or health providers with which the subject individual was associated, liability insurance carriers, organizations providing cardiopulmonary resuscitation training to the subject individual, State and local health and health care licensing or certifying organizations, and organizations which serve as repositories of information on health care professionals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix 1: System Managers and IRS Locations Under Their Jurisdiction Where Records Are Maintained

Director, Aberdeen Area Indian Health Service, Room 309, Federal Building, 115 Fourth Avenue, SE., Aberdeen, South Dakota 57401.

Director, Cheyenne River Service Unit, Eagle Butte Indian Hospital, P.O. Box 1012, Eagle Butte, South Dakota 57625.

Director, Crow Creek Service Unit, Ft. Thompson Indian Health Center, P.O. Box 200, Ft. Thompson, South Dakota 57339.

Director, Fort Berthold Service Unit, Fort Berthold Indian Health Center, P.O. Box 400, New Town, North Dakota 58763.

Director, Carl T. Curtis Health Center, P.O. Box 250, Macy, Nebraska 68039.

Director, Fort Totten Service Unit, Fort Totten Indian Health Center, P.O. Box 200, Fort Totten, North Dakota 58335.

Director, Kyle Indian Health Center, P.O. Box 540, Kyle, South Dakota 57752.

Director, Lower Brule Indian Health Center, P.O. Box 191, Lower Brule, South Dakota 57548.

Director, McLaughlin Indian Health Center, P.O. Box 879, McLaughlin, South Dakota 57642.

Director, Omaha-Winnebago Service Unit, Winnebago, Indian Hospital, Winnebago, Nebraska 68071.

Director, Pine Ridge Service Unit, Pine Ridge Indian Hospital, Pine Ridge, South Dakota 57770.

Director, Rapid City Service Unit, Rapid City Indian Hospital, 3200 Canyon Lake Drive, Rapid City, South Dakota 57701.

Director, Rosebud Service Unit, Rosebud Indian Hospital, Rosebud, South Dakota 57570.

Director, Sisseton-Wahpeton Service Unit, Sisseton Indian Hospital, P.O. Box 189, Sisseton, South Dakota 57262.

Director, Standing Rock Service Unit, Fort Yates Indian Hospital, P.O. Box J, Fort Yates, North Dakota 58538.

Director, Trenton-Williston Indian Health Center, P.O. Box 210, Trenton, North Dakota 58853.

Director, Turtle Mountain Service Unit, Belcourt Indian Hospital, P.O. Box 160, Belcourt, North Dakota 58316.

Director, Wanblee Indian Health Center, 100 Clinic Drive, Wanblee, South Dakota 57577.

Director, Yankton-Wagner Service Unit, Wagner Indian Hospital, 110 Washington Street, Wagner, South Dakota 57380.

Director, Youth Regional Treatment Center, P.O. Box #68, Mobridge, South Dakota 57601.

Director, Sac &; Fox Health Center, 307 Meskwaki Road, Tama, Iowa 52339.

Director, Santee Health Center, RR2, P.O. Box 160L, Niobrara, Nebraska 68760.

Director, Alaska Area Native Health Service, 4141 Ambassador Drive, Suite 300, Anchorage, Alaska 99508–5928.

Director, Albuquerque Area Health Service, 5300 Homestead Road, NE, Albuquerque, New Mexico 87110.

Director, Acoma-Canoncito-Laguna Service Unit, Acoma-Canoncito-Laguna Indian Hospital, P.O. Box 130, San Fidel, New Mexico 87049.

Director, To-Hajille Health Center, P.O. Box 3528, Canoncito, New Mexico 87026.

Director, New Sunrise Treatment Center, P.O. Box 219, San Fidel, New Mexico 87049.

Director, Albuquerque Service Unit, Albuquerque Indian Hospital, 801 Vassar Drive, NE., Albuquerque, New Mexico 87106.

Director, Albuquerque Indian Dental Clinic, P.O. Box 67830, Albuquerque, New Mexico 87193.

Director, Santa Fe Service Unit, Santa Fe Indian Hospital, 1700 Cerrillos Road, Santa Fe, New Mexico 87505.

Director, Santa Clara Health Center, RRS, Box 446, Espanola, New Mexico 87532.

Director, San Felipe Health Center, P.O. Box 4344, San Felipe, New Mexico 87001.

Director, Cochiti Health Center, P.O. Box 105, 255 Cochiti Street, Cochiti, New Mexico 87072.

Director, Santo Domingo Health Center, P.O. Box 340, Santo Domingo, New Mexico 87052.

Director, Southern Colorado-Ute Service Unit, P.O. Box 778, Ignacio, Colorado 81137.

Director, Ignacio Indian Health Center, P.O. Box 889, Ignacio, Colorado 81137.

Director, Ute Mountain Ute Health Center, Towaoc, Colorado 81334.

Director, Jicarilla Indian Health Center, P.O. Box 187, Dulce, New Mexico 87528.

Director, Mescalero Service Unit, Mescalero Indian Hospital, P.O. Box 210, Mescalero, New Mexico 88340.

Director, Taos/Picuris Indian Health Center, P.O. Box 1956, 1090 Goat Springs Road, Taos, New Mexico 87571.

Director, Zuni Service Unit, Zuni Indian Hospital, P.O. Box 467, Zuni, NM 87327.

Director, Pine Hill Health Center, P.O. Box 310, Pine Hill, New Mexico 87357.

Director, Bemidji Area Indian Health Service, 522 Minnesota Avenue, N.W., Bemidji, Minnesota 56601.

Director, Red Lake Service Unit, PHS Indian Hospital, Highway 1, Red Lake, Minnesota 56671.

Director, Leech Lake Service Unit, PHS Indian Hospital, 425 7th Street, NW., Cass Lake, Minnesota 56633.

Director, White Earth Service Unit, PHS Indian Hospital, P.O. Box 358, White Earth, Minnesota 56591.

Director, Billings Area Indian Health Service, P.O. Box 36600, 2900 4th Avenue, North Billings, Montana 59101.

Director, Blackfeet Service Unit, Browning Indian Hospital, P.O. Box 760, Browning, Montana 59417.

Director, Heart Butte PHS Indian Health Clinic, Heart Butte, Montana 59448.

Director, Crow Service Unit, Crow Indian Hospital, Crow Agency, Montana 59022.

Director, Lodge Grass PHS Indian Health Center, Lodge Grass, Montana 59090.

Director, Pryor P1–IS Indian Health Clinic, P.O. Box 9, Pryor, Montana 59066.

Director, Fort Peck Service Unit, Poplar Indian Hospital, Poplar, Montana 59255.

Director, Fort Belknap Service Unit, Harlem Indian Hospital, Harlem, Montana 59526.

Director, Hays PHS Indian Health Clinic, Hays, Montana 59526.

Director, Northern Cheyenne Service Unit, Lame Deer Indian Health Center, Lame Deer, Montana 59043.

Director, Wind River Service Unit, Fort Washakie Indian Health Center, Fort Washakie, Wyoming 82514.

Director, Arapahoe Indian Health Center, Arapahoe, Wyoming 82510.

Director, Chief Redstone Indian Health Center, Wolf Point, Montana 59201.

Director, California Area Indian Health Service, John B. Moss Federal Building, 650 Capitol Mall, Suite 7–100, Sacramento, California 95814.

Director, Nashville Area Indian Health Service, 711 Stewarts Ferry Pike, Nashville, Tennessee 37214–2634.

Director, Catawba PHS Indian Nation of South Carolina, P.O. Box 188, Catawba, South Carolina 29704.

Director, Unity Regional Youth Treatment Center, P.O. Box 27 C–201, Cherokee, North Carolina 28719.

Director, Navajo Area Indian Health Service, P.O. Box 9020, Highway 264, Window Rock, Arizona 86515–9020.

Director, Chinle Service Unit, Chinle Comprehensive Health Care Facility, P.O. Drawer PH, Chinle, Arizona 86503.

Director, Tsaile Health Center, P.O. Box 467, Navajo Routes 64 &; 12, Tsaile, Arizona 86556.

Director, Rock Point Field Clinic, c/o Tsaile Health Center, P.O. Box 647, Tsaile, Arizona 86557.

Director, Pinon Health Center, P.O. Box 10, Pinon, Arizona 86510.

Director, Crownpoint Service Unit, Crownpoint Comprehensive Health Care Facility, P.O. Box 358, Crownpoint, New Mexico 87313.

Director, Pueblo Pintado Health Station, c/o Crownpoint Comprehensive Health Care Facility, P.O. Box 358, Crownpoint, New Mexico 87313.

Director, Fort Defiance Service Unit, Fort Defiance Indian Hospital, P.O. Box 649, Intersection of Navajo Routes N12 &; N7, Fort Defiance, Arizona 86515.

Director, Nahata Dziil Health Center, P.O. Box 125, Sanders, Arizona 86512.

Director, Gallup Service Unit, Gallup Indian Medical Center, P.O. Box 1337, 516 E. Nizhoni Boulevard, Gallup, New Mexico 87305.

Director, Tohatchi Indian Health Center, P.O. Box 142, Tohatchi, New Mexico 87325.

Director, Ft. Wingate Health Station, c/o Gallup Indian Medical Center, P.O. Box 1337, Gallup, New Mexico 87305.

Director, Kayenta Service Unit, Kayenta Indian Health Center, P.O. Box 368, Kayenta, Arizona 86033.

Director, Inscription House Health Center, P.O. Box 7397, Shonto, Arizona 86054.

Director, Dennehotso Clinic, do Kayenta Health Center, P.O. Box 368, Kayenta, Arizona 86033.

Director, Shiprock Service Unit, Northern Navajo Medical Center, P.O. Box 160, U.S. Hwy 491 North, Shiprock, New Mexico 87420.

Director, Dzilth-Na-O-Dith-Hle Indian Health Center, 6 Road 7586, Bloomfield, New Mexico 87413.

Director, Four Corners Regional Health Center, U.S. Hwy 160, Navajo Route 35-Red Mesa, HRC 6100, Box 30, Teec Nos Pos, AZ 86514

Director, Sanostee Health Station, c/o Northern Navajo Medical Center, P.O. Box 160, Shiprock, New Mexico 87420.

Director, Toadlena Health Station, c/o Northern Navajo Medical Center, P.O. Box 160, Shiprock, New Mexico 87420.

Director, Teen Life Center, c/o Northern Navajo Medical Center, P.O. Box 160, Shiprock, New Mexico 87420.

Director, Oklahoma City Area Indian Health Service, 701 Market Drive, Oklahoma City, Oklahoma 73114.

Director, Claremore Service Unit, Claremore Comprehensive Indian Health Facility, West Will Rogers Boulevard and Moore, Claremore, Oklahoma 74017.

Director, Clinton Service Unit, Clinton Indian Hospital, Route 1, Box 3060, Clinton, Oklahoma 73601–9303.

Director, El Reno PHS Indian Health Clinic, 1631A E. Highway 66, El Reno, Oklahoma 73036.

Director, Watonga Indian Health Center, Route 1, Box 34–A, Watonga, Oklahoma 73772.

Director, Haskell Service Unit, PHS Indian Health Center, 2415 Massachusetts Avenue, Lawrence, Kansas 66044.

Director, Lawton Service Unit, Lawton Indian Hospital, 1515 Lawrie Tatum Road, Lawton, Oklahoma 73501.

Director, Anadarko Indian Health Center, P.O. Box 828, Anadarko, Oklahoma 73005.

Director, Carnegie Indian Health Center, P.O. Box 1120, Carnegie, Oklahoma 73150.

Director, Holton Service Unit, PHS Indian Health Center, 100 West 6th Street, Holton, Kansas 66436.

Director, Pawnee Service Unit, Pawnee Indian Service Center, RR2, Box 1, Pawnee, Oklahoma 74058–9247.

Director, Pawhuska Indian Health Center, 715 Grandview, Pawhuska, Oklahoma 74056.

Director, Wewoka Indian Health Center, P.O. Box 1475, Wewoka, Oklahoma 74884.

Director, Phoenix Area Indian Health Service, Two Renaissance Square, 40 North Central Avenue, Phoenix, Arizona 85004.

Director, Colorado River Service Unit, Chemehuevi Indian Health Clinic, P.O. Box 1858, Havasu Landing, California 92363.

Director, Colorado River Service Unit, Havasupai Indian Health Station, P.O. Box 129, Supai, Arizona 86435.

Director, Colorado River Service Unit, Parker Indian Health Center, 12033 Agency Road, Parker, Arizona 85344.

Director, Colorado River Service Unit, Peach Springs Indian Health Center, P.O. Box 190, Peach Springs, Arizona 86434.

Director, Colorado River Service Unit, Sherman Indian High School, 9010 Magnolia Avenue, Riverside, California 92503.

Director, Elko Service Unit, Newe Medical Clinic, 400 ''A'' Newe View, Ely, Nevada 89301.

Director, Elko Service Unit, Southern Bands Health Center, 515 Shoshone Circle, Elko, Nevada 89801.

Director, Fort Yuma Service Unit, Fort Yuma Indian Hospital, P.O. Box 1368, Fort Yuma, Arizona 85366.

Director, Reams Canyon Service Unit, Hopi Health Care Center, P.O. Box 4000, Polacca, Arizona 86042.

Director, Phoenix Service Unit, Phoenix Indian Medical Center, 4212 North 16th Street, Phoenix, Arizona 85016.

Director, Phoenix Service Unit, Salt River Health Center, 10005 East Osborn Road, Scottsdale, Arizona 85256.

Director, San Carlos Service Unit, Bylas Indian Health Center, P.O. Box 208, Bylas, Arizona 85550.

Director, San Carlos Service Unit, San Carlos Indian Hospital, P.O. Box 208, San Carlos, Arizona 85550.

Director, Schurz Service Unit, Schurz Service Unit Administration, Drawer A, Schurz, Nevada 89427.

Director, Fort McDermitt Clinic, P.O. Box 315, McDermitt, Nevada 89421.

Director, Unitah and Ouray Service Unit, Fort Duchesne Indian Health Center, P.O. Box 160, Ft. Duchesne, Utah 84026.

Director, Whiteriver Service Unit, Cibecue Health Center, P.O. Box 37, Cibecue, Arizona 85941.

Director, Whiteriver Service Unit, Whiteriver Indian Hospital, P.O. Box 860, Whiteriver, Arizona 85941.

Director, Desert Vision Youth Wellness Center/RTC, P.O. Box 458, Sacaton, AZ 85247.

Director, Portland Area Indian Health Service, Room 476, Federal Building, 1220 Southwest Third Avenue, Portland, Oregon 97204–2829.

Director, Colville Service Unit, Colville Indian Health Center, P.O. Box 71–Agency Campus, Nespelem, Washington 99155.

Director, Fort Hall Service Unit, Not-Tsoo Gah-Nee Health Center, P.O. Box 717, Fort Hall, Idaho 83203.

Director, Warm Springs Service Unit, Warm Springs Indian Health Center, P.O. Box 1209, Warm Springs, Oregon 97761.

Director, Weilpinit Service Unit, David C. Wynecoop Memorial Clinic, P.O. Box 357, Wellpinit, Washington 99040.

Director, Western Oregon Service Unit, Chemawa Indian Health Center, 3750 Chemawa Road, NE., Salem, Oregon 97305–1198.

Director, Yakama Service Unit, Yakama Indian Health Center, 401 Buster Road, Toppenish, Washington 98948.

Director, Tucson Area Indian Health Service, 7900 South ''J'' Stock Road, Tucson, Arizona 85746–9352.

Director, Pascua Yaqui Service Unit, Division of Public Health, 7900 South ''J'' Stock Road, Tucson, Arizona 85746.

Director, San Xavier Indian Health Center, 7900 South ''J'' Stock Road, Tucson, Arizona 85746.

Director, Sells Service Unit, Santa Rosa Indian Health Center, HCO1, Box 8700, Sells, Arizona 85634.

Director, Sells Service Unit, Sells Indian Hospital, P.O. Box 548, Sells, Arizona 85634.

Director, Sells Service Unit, West Side Health Station, P.O. Box 548, Sells, Arizona 85634.

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BILLING CODE 4165–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0409]

Request for Notification From Industry Organizations Interested in Participating in the Selection Process for a Pool of Nonvoting Industry Representatives for the Risk Communication Advisory Committee and Request for Nominations for Nonvoting Industry Representatives for the Risk Communication Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting that

any industry organizations interested in participating in the selection of a pool of nonvoting industry representative candidates available to serve as temporary nonvoting members on its Risk Communication Advisory Committee (the Committee) for the Office of the Commissioner notify FDA in writing. A nominee may either be self-nominated or nominated by an organization to serve as a nonvoting industry representative. Nominations for the pool will be accepted effective with this notice.

DATES: Any industry organization interested in participating in the selection of a pool of appropriate candidates for temporary nonvoting membership to represent industry interests must send a letter stating the interest to FDA by October 9, 2009, for vacancies listed in the notice. Concurrently, nomination material for prospective candidates should be sent to FDA by October 9, 2009.

ADDRESSES: All letters of interest and nominations should be submitted in writing to Lee L. Zwanziger (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Lee L. Zwanziger, Office of Policy, Planning and Budget, Office of the Commissioner, Food and Drug Administration, 5600 Fishers Lane, rm. 14–90, 301–827–2895, fax: 301–827–4050, *RCAC@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: The agency requests nominations for a pool of nonvoting industry representative candidates for the Risk Communication Advisory Committee.

I. The Risk Communication Advisory Committee

The Risk Communication Advisory Committee advises the Commissioner of Food and Drugs and designees on strategies and programs designed to communicate with the public about the risks and benefits of FDA-regulated products so as to facilitate optimal use of these products. The Committee also reviews and evaluates research relevant to such communication to the public by both FDA and other entities. The Committee also facilitates interactively sharing risk and benefit information with the public to enable people to make informed independent judgments about use of FDA-regulated products.

The FDA hopes to identify a pool of individuals who would have expertise in risk communication and would be identified with the interests of various segments of regulated industry. The Commissioner, or designee, shall have the authority to select one or more individuals to serve temporarily as nonvoting members; the number of temporary members selected for a particular meeting will depend on the meeting topic(s).

II. Selection Procedure

Any industry organization interested in participating in the selection of appropriate nonvoting member candidates to represent industry interests should send a letter stating that interest to the FDA contact (see **ADDRESSES**) within 30 days of publication of this document (see **DATES**). Within the subsequent 30 days, FDA will send a letter to each organization that has expressed an interest, attaching a complete list of all such organizations, and a list of all nominees along with their current resumes. The letter will also state that it is the responsibility of the interested organizations in each industry segment to confer with one another and to select one or two candidates (allowing for an alternate) from the segment for the pool within 60 days after the receipt of the FDA letter. For this purpose, ''segments'' should be understood in correspondence with the eight links listed on the FDA Web site: Food; drugs; medical devices; vaccines, blood and biologics; animal and veterinary; cosmetics; radiation-emitting products; and tobacco products (*http://www.fda.gov*). The interested organizations are not bound by the list of nominees in selecting candidates. However, if no individuals are selected within 60 days, the Commissioner of Food and Drugs will select temporary nonvoting members as needed to represent industry interests.

III. Application Procedure

Individuals may self-nominate and/or an organization may nominate one or more individuals to serve as a nonvoting industry representative. Within the 30 days, the following information should be sent to the FDA contact person: A current curriculum vitae of each nominee, current business and/or home address, telephone number, e-mail address, and the name of the committee of interest. FDA will forward all nominations to the organizations expressing interest in participating in the selection process for the committee. (Persons who nominate themselves as nonvoting industry representatives will not participate in the selection process).

FDA has a special interest in ensuring that women, minority groups, individuals with physical disabilities and small businesses are adequately represented on its advisory committees, and therefore, encourages, nominations for appropriately qualified candidates from these groups.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: September 2, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–21554 Filed 9–8–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0410]

Request for Notification from Industry Organizations Interested in Participating in the Selection Process for Nonvoting Industry Representatives on Medical Device Advisory Committee Panels and Request for Nonvoting Industry Representatives on Medical Device Advisory Committee Panels

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting that any industry organization interested in participating in the selection of nonvoting industry representatives to serve on certain device panels of the Medical Devices Advisory Committee in the Center for Devices and Radiological Health notify FDA in writing. A nominee may either be self-nominated or nominated by an organization to serve as a nonvoting industry representative. Nominations will be accepted for current vacancies effective with this notice.

DATES: Any industry organizations interested in participating in the selection of an appropriate nonvoting member to represent industry interests must send a letter stating that interest to FDA by October 9, 2009, for the vacancies listed in this notice. Concurrently, nomination materials for prospective candidates should be sent to FDA by October 9, 2009.

ADDRESSES: Send all letters of interest and nominations to Kathleen L. Walker (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Kathleen L. Walker, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 5238, Silver Spring, MD 20993, 301–796–5964, e-mail: *kathleen.walker@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Section 520(f)(3) of the Federal Food, Drug, and

Cosmetic Act (the act) (21 U.S.C. 360j(f)(3)), as amended by the Medical Device Amendments of 1976, provides that each medical device panel include one nonvoting member to represent the interests of the medical device manufacturing industry.

FDA is requesting nominations for nonvoting members representing industry interests for the following vacancies listed in table 1 of this document.

TABLE 1.

Medical Devices Panels	Approximate Date Needed
Dental Products Panel	November 1, 2009
General Hospital and Personal Use Devices Panel	January 1, 2010
Hematology and Pathology Devices Panel	March 1, 2010
Immunology Devices Panel	March 1, 2010
Ophthalmic Devices Panel	November 1, 2009

I. Functions

The functions of the medical device panels are listed as follows: (1) Review and evaluate data on the safety and effectiveness of marketed and investigational devices and make recommendations for their regulation, (2) advise the Commissioner of Food and Drugs regarding recommended classification or reclassification of these devices into one of three regulatory categories, (3) advise on any possible risks to health associated with the use of devices, (4) advise on formulation of product development protocols, (5) review premarket approval applications for medical devices, (6) review guidelines and guidance documents, (7) recommend exemption to certain devices from the application of portions of the act, (8) advise on the necessity to ban a device, (9) respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices, and (10) make recommendations on the quality in the design of clinical studies regarding the safety and effectiveness of marketed and investigational devices.

II. Selection Procedure

Any industry organization interested in participating in the selection of an appropriate nonvoting member to represent industry interests should send a letter stating that interest to the contact person (see **FOR FURTHER INFORMATION CONTACT**) within 30 days of publication of this notice. Within the subsequent 30 days, FDA will send a letter to each organization that has expressed an interest, attaching a complete list of all such organizations, and a list of all nominees along with their current resumes. The letter will also state that it is the responsibility of the interested organizations to confer with one another and to select a candidate, within 60 days after the receipt of the FDA letter, to serve as the nonvoting member to represent industry interests for a particular device panel. The interested organizations are not bound by the list of nominees in selecting a candidate. However, if no individual is selected within the 60 days, the Commissioner of Food and Drugs will select the nonvoting member to represent industry interests.

III. Qualifications

Persons nominated for the device panels should be full time employees of firms that manufacture products that would come before the panel, or consulting firms that represent manufacturers, or have similar appropriate ties to industry.

IV. Application Procedure

Individuals may self-nominate and/or an organization may nominate one or more individuals to serve as a nonvoting industry representative. Within the 30 days, the following information should be sent to the FDA contact person (see **FOR FURTHER INFORMATION CONTACT**): A current curriculum vitae of each nominee, current business and/or home address, telephone number, e-mail address, and the name of the device panel of interest. FDA will forward all nominations to the organizations expressing interest in participating in the selection process for the device panel. (Persons who nominate themselves as nonvoting industry representatives will not participate in the selection process).

FDA has a special interest in ensuring that women, minority groups, individuals with physical disabilities, and small businesses are adequately represented on its advisory committees, and therefore, encourages nominations for appropriately qualified candidates from these groups.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: September 2, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–21555 Filed 9–8–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0412]

Request for Nominations for Voting and Nonvoting Consumer Representative Members on Public Advisory Committees and Panels

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for voting and nonvoting consumer representatives to serve on the National Mammography Quality Assurance Advisory Committee (NMQAAC) and certain devices panels of the Medical Devices Advisory Committee in the Center for Devices and Radiological Health (CDRH).

FDA has a special interest in ensuring that women, minority groups, and individuals with disabilities are adequately represented on advisory committees and, therefore, encourages nominations of qualified candidates from these groups.

DATES: Nominations will be accepted for current vacancies and for those that will or may occur through October 31, 2010. Because vacancies occur on various

dates throughout the year, there is no cutoff date for the receipt of nominations.

ADDRESSES: All nomination for membership should be sent electronically to *CV@OC.FDA.GOV* or by mail to Advisory Committee Oversight and Management Staff or by mail to Advisory Committee Oversight and Management Staff (HF–4), 5600 Fishers Lane, Rockville, MD 20857. Information about becoming a member on an FDA advisory committee can also be obtained by visiting FDA's Web site *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/CommitteeMembership/default.htm*.

FOR FURTHER INFORMATION CONTACT: *For general information*: Doreen Brandes, Office of the Commissioner (HF–4), Food and Drug Administration, 5600 Fishers Lane, rm. 14C–3, Rockville, MD 20857, 301–827–8858, email: *doreen.brandes@fda.hhs.gov*.

For specific committee questions, contact the following persons listed in table 1 of this document.

TABLE 1.

Contact Person	Committee/Panel
Geretta P. Wood, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 1682, Silver Spring, MD 20993, 301–796–5550, or e-mail *Geretta.Wood@fda.hhs.gov*	Certain Device Panels of the Medical Devices Advisory Committee
Normica Facey, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 4652, Silver Spring, MD 20993, e-mail: *Normica.Facey@fda.hhs.gov*	National Mammography Quality Assurance Advisory Committee

SUPPLEMENTARY INFORMATION:

I. Vacancies

FDA is requesting nominations for voting and nonvoting consumer representatives for the vacancies listed in table 2 of this document:

TABLE 2.

Committee/Panel Expertise Needed	Current & Upcoming Vacancies	Approximate Date Needed
Circulatory System Devices Panel of the Medical Devices Advisory Committee - interventional cardiologists, electrophysiologists, invasive (vascular) radiologists, vascular and cardiothoracic surgeons, and cardiologists with special interest in congestive heart failure	1-nonvoting	Immediately
Dental Products Panel of the Medical Devices Advisory Committee - dentists, engineers and scientists who have expertise in the areas of dental implants, dental materials, periodontology, tissue engineering, and dental anatomy	1-nonvoting	November 1, 2009
General and Plastic Surgery Devices Panel of the Medical Devices Advisory Committee - surgeons (general, plastic, reconstructive, pediatric, thoracic, abdominal, pelvic and endoscopic); dermatologists; experts in biomaterials, lasers, wound healing, and quality of life; and biostatisticians	1-nonvoting	Immediately
Hematology and Pathology Devices Panel of the Medical Devices Advisory Committee - hematologists (benign and/or malignant hematology), hematopathologists (general and special hematology, coagulation and homeostasis, and hematological oncology), gynecologists with special interests in gynecological oncology, cytopathologists, and molecular pathologists with special interests in development of predictive and prognostic biomarkers	1-nonvoting	Immediately
Immunology Devices Panel of the Medical Devices Advisory Committee - persons with experience in medical, surgical, or clinical oncology, internal medicine, clinical immunology, allergy, molecular diagnostics, or clinical laboratory medicine	1-nonvoting	March 1, 2010
Medical Devices Dispute Resolution Panel of the Medical Devices Advisory Committee - experts with broad, cross-cutting scientific, clinical, analytical or mediation skills	1-nonvoting	Immediately

TABLE 2.—Continued

Committee/Panel Expertise Needed	Current & Upcoming Vacancies	Approximate Date Needed
Microbiology Devices Panel of the Medical Devices Advisory Committee - infectious disease clinicians, e.g., pulmonary disease specialists, sexually transmitted disease specialists, pediatric infectious disease specialists, experts in tropical medicine and emerging infectious diseases, biofilm development; mycologists; clinical microbiologists and virologists; clinical virology and microbiology laboratory directors, with expertise in clinical diagnosis and in vitro diagnostic assays, e.g., hepatologists; molecular biologists	1-nonvoting	Immediately
Molecular and Clinical Genetics Devices Panel of the Medical Devices Advisory Committee - experts in human genetics and in the clinical management of patients with genetic disorders, e.g., pediatricians, obstetricians, neonatologists. Individuals with training in inborn errors of metabolism, biochemical and/or molecular genetics, population genetics, epidemiology and related statistical training, and clinical molecular genetics testing (e.g., genotyping, array CGH, etc.) Individuals with experience in genetics counseling, medical ethics are also desired, and individuals with experience in ancillary fields of study will be considered	1-nonvoting	June 1, 2010
Neurological Devices Panel of the Medical Devices Advisory Committee - neurosurgeons (cerebrovascular and pediatric), neurologists (stroke, pediatric, pain management, and movement disorders), interventional neuroradiologists, psychiatrists, and biostatisticians	1-nonvoting	December 1, 2009
Obstetrics and Gynecology Devices Panel of the Medical Devices Advisory Committee - experts in perinatology, embryology, reproductive endocrinology, pediatric gynecology, gynecological oncology, operative hysteroscopy, pelviscopy, electrosurgery, laser surgery, assisted reproductive technologies, contraception, postoperative adhesions, and cervical cancer and colposcopy; biostatisticians and engineers with experience in obstetrics/gynecology devices; urogynecologists; experts in breast care; experts in gynecology in the older patient; experts in diagnostic (optical) spectroscopy; experts in midwifery; labor and delivery nursing	1-nonvoting	February 1, 2010
Ophthalmic Devices Panel of the Medical Devices Advisory Committee - ophthalmologists specializing in cataract and refractive surgery and vitreo-retinal surgery, in addition to vision scientists, optometrists, and biostatisticians practiced in ophthalmic clinical trials	1-nonvoting	November 1, 2009
Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee - orthopedic surgeons (joint, spine, trauma, and pediatric); rheumatologists; engineers (biomedical, biomaterials, and biomechanical); experts in rehabilitation medicine, sports medicine, and connective tissue engineering; and biostatisticians	1-nonvoting	Immediately
National Mammography Quality Assurance Advisory Committee - physicians, practitioners, or other health professionals whose clinical practice, research specialization, or professional expertise include a significant focus on mammography	2-voting	February 1, 2010

II. Functions

A. National Mammography Quality Assurance Advisory Committee

The committee advises FDA on the following topics: (1) Developing appropriate quality standards and regulations for mammography facilities, (2) developing appropriate standards and regulations for bodies accrediting mammography facilities under this program, (3) developing regulations with respect to sanctions, (4) developing procedures for monitoring compliance with standards, (5) establishing a mechanism to investigate consumer complaints, (6) reporting new developments concerning breast imaging which should be considered in the oversight of mammography facilities, (7) determining whether there exists a shortage of mammography facilities in rural and health professional shortage areas and determining the effects of personnel on access to the services of such facilities in such areas, (8) determining whether

there will exist a sufficient number of medical physicists after October 1, 1999, and (9) determining the costs and benefits of compliance with these requirements.

B. Certain Panels of the Medical Devices Advisory Committee

The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation. The panels engage in a number of activities to fulfill the functions of the Federal Food, Drug, and Cosmetic Act (the act) envisions for device advisory panels. With the exception of the Medical Devices Dispute Resolution Panel, each panel, according to its specialty area, advises the Commissioner of Food and Drugs (the Commissioner) regarding recommended classification or reclassification of devices into one of three regulatory categories, advises on any possible risks to health associated with the use of devices, advises on formulation of product development protocols, reviews premarket approval applications for medical devices, reviews guidelines and guidance documents, recommends exemption of certain devices from the application of portions of the act, advises on the necessity to ban a device, and responds to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices. With the exception of the Medical Devices Dispute Resolution Panel, each panel, according to its specialty area, may also make appropriate recommendations to the Commissioner on issues relating to the design of clinical studies regarding the safety and effectiveness of marketed and investigational devices.

III. Criteria for Members

Persons nominated for membership as a consumer representatives on the committee/panels must meet the following criteria: (1) Demonstrate ties to consumer and community-based organizations, (2) be able to analyze technical data, (3) understand research design, (4) discuss benefits and risks, and (5) evaluate the safety and efficacy of products under review. The consumer representative must be able to represent the consumer perspective on issues and actions before the advisory committee; serve as a liaison between the committee and interested consumers, associations, coalitions, and consumer organizations; and facilitate dialogue with the advisory committees on scientific issues that affect consumers.

IV. Selection Procedures

Selection of members representing consumer interests is conducted through procedures that include the use of organizations representing the public interest and consumer advocacy groups. The organizations have the responsibility of recommending candidates of the agency's selection.

V. Nomination Procedures

All nominations must include a cover letter, a curriculum vita or resume (that includes the nominee's office address, telephone number, and e-mail address), and a list of consumer or community-based organizations for which the candidate can demonstrate active participation.

Nominations will specify the advisory committee or panel(s) for which the nominee is recommended. Nominations will include confirmation that the nominee is aware of the nomination.

Any interested person or organization may nominate one or more qualified persons for membership as consumer representatives on the advisory committee/panels. Self-nominations are also accepted. Potential candidates will be required to provide detail information concerning such matters as financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of a conflict of interest. The nomination should specify the committee/panels of interest. The term of office is up to 4 years, depending on the appointment date.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: September 2, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–21558 Filed 9–8–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5281–N–66]

Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request; Broadband Research Project

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* September 16, 2009.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within fourteen (14) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Mr. Ross A. Rutledge, HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20502; e-mail: *Ross_A._Rutledge@omb.eop.gov*; fax: (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail: *Lillian.L.Deitzer@hud.gov*; telephone (202) 402–8048. This is not a toll-free number. Copies of available documents should be submitted to OMB and may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, a proposed information collection as part of planning for the National Broadband Plan ordered under the American Recovery and Reinvestment Act of 2009. The information will describe the availability and usage of broadband internet services in HUD-assisted housing and at Neighborhood Networks Centers. The respondents are Public Housing Authorities, Tribes and managers of multi-family and HOME Investment Partnerships Program properties as well as managers of Neighborhood Networks Centers. HUD will survey all PHAs, Indian Tribes and managers of Neighborhood Networks Centers and a 500-respondent sample for each of Multi-Family managers with e-mail address, Multi-Family managers without e-mail addresses and HOME managers.

For the Residential Broadband Survey, each respondent will be asked to voluntarily disclose whether broadband internet service is available in their project and approximately how many residents subscribe to that service. For the Neighborhood Networks Survey, each Center manager will be voluntarily asked to describe the programming offered at their Center as well as the number of users who utilize the Center.

This data will help identify opportunities for HUD to invest in providing broadband service for residents.

This Notice Also Lists the Following Information

Title of Proposal: Broadband Research Project.

Description of Information Collection: This is a new information collection. The Department of Housing and Urban Development is seeking emergency review of the Paperwork Reduction Act Requirements associated with a broadband research project.

OMB Control Number: Pending.

Agency Form Numbers: None.

Members of the Affected Public: Public housing executive directors, managers of HUD-assisted housing projects and Neighborhood Networks Center managers.

Estimation of the total numbers of hours needed to prepare the information collection including number of responses, frequency of responses, and hours of responses: This is a one-time collection. Each respondent will need approximately 15 minutes to complete the questionnaire. There are 7,817 total respondents. The total reporting burden will be 1,563.4 hours.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 3, 2009.

Lillian Deitzer,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. E9–21729 Filed 9–8–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5282–N–06]

Notice of Submission of Proposed Information Collection to OMB; Comment Request; HUD NEPA ARRA Section 1609(c) Reporting

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review and extension of the current approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 9, 2009.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Lillian L. Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4178, Washington, DC 20410–5000; telephone (202) 402–8048 (this is not a toll-free number) or e-mail Ms. Deitzer at *Lillian.L.Deitzer@hud.gov* for a copy of the proposed form, or other available information.

FOR FURTHER INFORMATION CONTACT: Charles Bien, Director, Environmental Review Division, Office of Environment and Energy, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail: *Charles.Bien@hud.gov*; telephone (202) 402–4462. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice lists the following information:

Title of Proposal: HUD NEPA ARRA Section 1609(c) Reporting.

Description of Information Collection: The temporary electronic form will be provided by HUD to be used by grantees [i.e., Respondents] for the purpose of complying with the ARRA Section 1609(c) statutory requirement. Grantees who receive American Recovery and Reinvestment Act (ARRA) funding for projects must report on the status and progress of their projects and activities with respect to compliance with the National Environmental Policy Act (NEPA) requirements and documentation. HUD will consolidate and transmit the information received from grantees to the Council on Environmental Quality and OMB for the Administration's reports to the House and Senate committees designated in the legislation.

OMB Control Number: 2506–0187.

Agency Form Numbers: None.

Members of the Affected Public: Not-for-profit institutions, State, Local or Tribal Government.

Estimation of the total number of hours needed to prepare the information collection including number of responses, frequency of responses, and hours of responses: Estimated number of respondents is 6,000. Frequency of response is quarterly. Annual number of responses is 24,000 (6,000 x 4). Estimate 30 minutes for response. Annualized burden hours is 12,000 (24,000 x 0.5 hours).

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 2, 2009.

Mercedes M. Márquez,

Assistant Secretary for Community Planning and Development.

[FR Doc. E9–21736 Filed 9–8–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5281–N–67]

Notice of Application for Designation as a Single Family Foreclosure Commissioner

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Under the Single Family Mortgage Foreclosure Act of 1994, HUD may exercise a nonjudicial power of sale of single-family HUD-held mortgages and may appoint foreclosure commissioners to do this. HUD needs the notice and resulting applications for compliance with the Act's requirements that commissioners be qualified. Most respondents will be attorneys, but anyone may apply.

DATES: *Comments Due Date: October 9, 2009.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2510–0012) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at *Lillian_L._Deitzer@HUD.gov* or telephone (202) 402–8048. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Notice of Application for Designation as a Single Family Foreclosure Commissioner

OMB Approval Number: 2510–0012

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: Under the Single Family Mortgage Foreclosure Act of 1994, HUD may exercise a nonjudicial power of sale of single-family HUD-held mortgages and may appoint foreclosure commissioners to do this. HUD needs the notice and resulting applications for compliance with the Act's requirements that commissioners be qualified. Most respondents will be attorneys, but anyone may apply.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	30	1		0.50		15

Total Estimated Burden Hours: 15.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 3, 2009.

Lillian Deitzer,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. E9–21703 Filed 9–8–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5281–N–65]

Legal Instructions Concerning Applications for Full Insurance Benefits-Assignment of Multifamily Mortgages to the Secretary

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Mortgagees of HUD-insured multi-family loans may receive mortgage insurance benefits upon assignment of mortgages to HUD. In connection with the assignment, legal documents (e.g. mortgage, mortgage note, security agreement, title insurance policy) must be submitted to the Department.

DATES: *Comments Due Date:* October 9, 2009.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2510–0006) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at *Lillian_L._Deitzer@HUD.gov* or telephone (202) 402–8048. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice Also Lists the Following Information

Title of Proposal: Legal Instructions Concerning Applications for Full Insurance Benefits—Assignment of Multifamily Mortgages to the Secretary.

OMB Approval Number: 2510–0006.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: Mortgagees of HUD-insured multi-family loans may receive mortgage insurance benefits upon assignment of mortgages to HUD. In connection with the assignment, legal documents (e.g. mortgage, mortgage note, security agreement, title insurance policy) must be submitted to the Department.

Frequency of Submission: On occasion.

	Number Of respondents	Annual responses	x	Hours Per response	=	Burden Hours
Reporting burden	128	1	.....	26	.....	3,328

Total Estimated Burden Hours: 3,328.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 2, 2009.

Lillian Deitzer,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. E9–21730 Filed 9–8–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

[Docket No. MMS–2009–OMM–0004]

MMS Information Collection Activity: 1010–0071, Relief or Reduction in Royalty Rates, Extension of a Collection; Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of an information collection (1010–0071).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR 203, *Relief or Reduction in Royalty Rates,* and related documents. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATE: Submit written comments by October 9, 2009.

ADDRESSES: You should submit comments directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–0071), either by fax (202) 395–5806 or e-mail (*OIRA_DOCKET@omb.eop.gov*). Please also send a copy to MMS by either of the following methods:

- *Electronically:* Go to *http://www.regulations.gov*. Under the tab More Search Options, click Advanced Docket Search, then select Minerals Management Service from the agency drop-down menu, then click submit. In the Docket ID column, select MMS–2009–OMM–0004 to submit public comments and to view supporting and related materials available. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's User Tips link. The MMS will post all comments.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Cheryl Blundon; 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference Information Collection 1010–0071 in your subject line and include your name and address.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Regulations and Standards Branch, (703) 787–1607. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulation that requires the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR 203, Relief or Reduction in Royalty Rates.

OMB Control Number: 1010–0071.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended by Public Law 104–58, Deep Water Royalty Relief Act (DWRRA), gives the Secretary of the Interior (Secretary) the authority to reduce or eliminate royalty or any net profit share specified in OCS oil and gas leases to promote increased production. The DWRRA also authorized the Secretary to suspend royalties when necessary to promote development or recovery of marginal resources on producing or non-producing leases in the Gulf of Mexico (GOM) west of 87 degrees, 30 minutes West longitude.

Section 302 of the DWRRA provides that new production from a lease in existence on November 28, 1995, in a water depth of at least 200 meters, and in the GOM west of 87 degrees, 30 minutes West longitude qualifies for royalty suspension in certain situations. To grant a royalty suspension, the Secretary must determine that the new production or development would not be economic in the absence of royalty relief. The Secretary must then determine the volume of production on which no royalty would be due in order to make the new production from the lease economically viable. This determination is done on a case-by-case basis. Production from leases in the same water depth and area issued after November 28, 2000, also can qualify for royalty suspension in addition to any that may be included in their lease terms.

In addition, Federal policy and statute require us to recover the cost of services that confer special benefits to identifiable non-Federal recipients. The Independent Offices Appropriation Act (31 U.S.C. 9701), Office of Management and Budget (OMB) Circular A–25, and the Omnibus Appropriations Bill (Pub. L. 104–133 110 Stat. 1321, April 26, 1996) authorize the Minerals Management Service (MMS) to collect these fees to reimburse us for the cost to process applications or assessments.

Regulations at 30 CFR part 203 implement these statutes and policy and require respondents to pay a fee to request royalty relief. Section 203.3 states that, ''We will specify the necessary fees for each of the types of royalty-relief applications and possible MMS audits in a Notice to Lessees. We will periodically update the fees to reflect changes in costs as well as provide other information necessary to administer royalty relief.''

The MMS uses the information to make decisions on the economic viability of leases requesting a suspension or elimination of royalty or net profit share. These decisions have enormous monetary impacts to both the lessee and the Federal Government. Royalty relief can lead to increased production of natural gas and oil, creating profits for lessees and royalty and tax revenues for the government that they might not otherwise receive. We could not make an informed decision without the collection of information required by 30 CFR part 203.

Regulations implementing these responsibilities are under 30 CFR part 203. Responses are mandatory or are required to obtain or retain a benefit. No questions of a sensitive nature are asked. The MMS protects information considered proprietary according to 30 CFR parts 203.63 and 250, and the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2).

Frequency: On occasion.

Description of Respondents: Potential respondents comprise Federal OCS oil and gas lessees and/or operators. It should be noted that not all of the

potential respondents will submit information in any given year and some may submit multiple times.

Estimated Reporting and Recordkeeping Hour Burden: The estimated annual hour burden for this information collection is a total of 2,635 hours. The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 203	Reporting or recordkeeping requirement 30 CFR part 203	Hour burden	Average No. of annual responses	Annual burden hours
		Application/Audit Fees		
2(b); 3; 4; 70	These sections contain general references to submitting reports, applications, requests, copies, demonstrating qualifications, for MMS approval—burdens covered under specific requirements.			0
Royalty Relief for Ultra-Deep Gas Wells and Deep Gas Wells on Shallow Water Leases				
31(c)	Request a refund of or recoup royalties from qualified ultra-deep wells.	1	1 request	1
35(d); 44(e)	Request to extend the deadline for beginning production with required supporting documentation.	4	2 requests	8
41(d)	Request a refund of or recoup royalties from qualified wells >200 meters but <400 meters.	1	1 request	1
35(a); 44(a); 47(a)	Notify MMS of intent to begin drilling	1	27 notifications	27
35(c), (d); 44(b), (d), (e)	Notify MMS that production has begun, request confirmation of the size of RSV, provide supporting documentation.	2	24 notifications	48
46	Provide data from well to confirm and attest well drilled was an unsuccessful certified well with supporting documentation and request supplement.	8	4 responses	32
49(b)	Notify MMS or decision to exercise option to replace one set of deep gas royalty suspension terms for another set of such terms.	The MMS SOL requires that this reg text stay for legacy purposes only. Last time any respondent could use was 2004; hence, no burden.		0
Subtotal			59	117
End of Life and Special Royalty Relief*				
51; 83; 84 NTL	Application—leases that generate earnings that cannot sustain continued production (end-of-life lease); required supporting documentation.	100	1 application every 3 years.	34 (rounded)
		application ⅓ × $8,000 = $2,667 (rounded)* audit ⅓ × $12,500 = $4,167 (rounded)		
52	Demonstrate ability to qualify for royalty relief or to re-qualify	1	1 response	1
55	Renounce relief arrangement (end-of-life) (seldom, if ever will be used; minimal burden to prepare letter).	1	1 letter every 3 years.	1 (rounded)
80 NTL	Application—apart from formal programs for royalty relief for marginal producing lease (Special Case Relief); required supporting documentation.	250	1 application every 2 years.	125
		application ½ × $8,000** = $4,000 audit ¼ × $12,500 = $3,125		
80 NTL	Application—apart from formal programs for royalty relief for marginal expansion project or marginal non-producing lease (Special Case Relief); required supporting documentation.	1,000	1 application every 2 years.	500
		application ½ × $19,500** = $9,750 audit ¼ × $18,750 = $4,688		
			3 (rounded)	661
Subtotal			$28,397 fees	

Citation 30 CFR 203	Reporting or recordkeeping requirement 30 CFR part 203	Hour burden	Average No. of annual responses	Annual burden hours
	CPA Report			
81; 83–90	Required reports; extension justification	Burden included with applications		0
		1 CPA report × $45,000 each = $45,000		
Subtotal			1	$45,000
	Deep Water Royalty Relief Act (DWRAA)			
61; 62; 64; 65; 71; 83; 85–89; NTL.	Application—preview assessment (seldom if ever will be used as applicants generally opt for binding determination by MMS instead) and required supporting documentation.	900	1 application every 3 years.	300
		application ⅓ × $28,500 = $9,500		
62; 64; 65; 71; 83; 85–89	Application—leases in designated areas of GOM deep water acquired in lease sale before 11/28/95 or after 11/28/00 and are producing (deep water expansion project); required supporting documentation.	2,000	1 application every 3 years.	667 (rounded)
		application ⅓ × $19,500 = $6,500		
62; 64; 65; 203.71; 81; 83; 85–89; NTL.	Application—leases in designated areas of deep water GOM, acquired in lease sale before 11/28/95 or after 11/28/00 that have not produced (pre-act or post-2000 deep water leases); required supporting documentation.	2,000	1 application every 3 years.	667 (rounded)
		application ⅓ × $34,000 = $11,334 (rounded)* audit ⅓ × $37,500 = $12,500		
70; 81; 90; 91	Submit fabricator's confirmation report; extension justification	20	1 report every 3 years.	7 (rounded)
70; 81; 90; 92; NTL	Submit post-production development report; extension justification. # Reserve right to audit (1 audit every 6 years) after production starts to confirm cost estimates of the application.	50	1 report* every 3 years.	17 (rounded)
		# audit ⅙ × $18,750 = $3,125		
74; 75; NTL	Redetermination and required supporting documentation	500	1 redetermination every 3 years.	167 (rounded)
		application ⅓ × $16,000 = $5,334 (rounded)*		
77	Renounce relief arrangement (deep water) (seldom, if ever will be used; minimal burden to prepare letter).	1	1 letter every 3 years.	1 (rounded)
79(a)	Request reconsideration of MMS field designation	This was a regulatory requirement for leases issued prior to 1995		0
79(c)	Request extension of deadline to start construction	2	1 request every 3 years.	1 (rounded)
81; 83–90	Required reports; extension justification	Burden included with applications		0
83; NTL	Application—short form to add or assign pre-Act lease and required supporting documentation.	40	1 application every 3 years.	14 (rounded)
		application ⅓ × $1,000 = $334 (rounded)		
			3 (rounded)	1,841
Subtotal			$48,627	

Citation 30 CFR 203	Reporting or recordkeeping requirement 30 CFR part 203	Hour burden	Average No. of annual responses	Annual burden hours
	Recordkeeping			
81(d)	Retain supporting cost records for post-production development/fabrication reports (records retained as usual/customary business practice; minimal burden to make available at MMS request).	8	2 recordkeepers	16
Subtotal			2 recordkeepers	16
			68	2,635
Total Annual Burden			$122,024 Fees	

* CPA certification expense burden also imposed on applicant.
** These applications currently do not have a set fee since they are done on a case-by-case basis.
Note: Applications include numerous items such as: Transmittal letters, letters of request, modifications to applications, reapplications, etc.

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: There are two non-hour costs associated with this information collection. The estimated non-hour cost burden is $122,024. This estimate is based on:

(a) *Application and audit fees.* The total annual estimated cost burden for these fees is $77,024 (refer to burden chart).

(b) *Cost of reports prepared by independent certified public accountants.* Under § 203.81, a report prepared by an independent certified public accountant must accompany the application and post-production report (expansion project, short form, and preview assessment applications are excluded). The OCS Lands Act applications will require this report only once; the DWRRA applications will require this report at two stages—with the application and post-production development report for successful applicants. MMS estimates approximately one submission each year at an average cost of $45,000 per report, for a total estimated annual cost burden of $45,000.

The total of the two burdens is estimated at $122,024.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on April 22, 2009, we published a **Federal Register** notice (74 FR 18393) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 203.82 provides the OMB control number for the information collection requirements imposed by the 30 CFR part 203 regulations. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We have received no comments in response to these efforts.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by October 9, 2009.

Public Availability of Comments: Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

MMS Information Collection Clearance Officer: Arlene Bajusz, (202) 208–7744.

Dated: June 23, 2009.

E.P. Danenberger,

Chief, Office of Offshore Regulatory Programs.

[FR Doc. E9–21708 Filed 9–8–09; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–11126; LLAK–962000–L14100000–HY0000–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 the conveyance of surface and subsurface estates for certain lands pursuant to the Alaska Native Claims Settlement Act will be issued to Ahtna, Incorporated for 773.78 acres located southwesterly of the Native village of Tazlina, 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 October 9, 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 (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 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. E9–21662 Filed 9–8–09; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–LLMTC03000–L13200000EL0000 NDM 97633]

Notice of Competitive Coal Lease Sale, North Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Competitive Coal Lease Sale.

SUMMARY: Notice is hereby given that the coal reserves in the lands described below in Oliver County, North Dakota, will be offered for competitive lease by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1920.

DATES: The lease sale will be held at 11 a.m. on October 15, 2009. Sealed bids must be submitted on or before 10 a.m. October 15, 2009.

ADDRESSES: The lease sale will be held in the 920 Conference Room of the Bureau of Land Management (BLM) Montana State Office, 5001 Southgate Drive, Billings, Montana 59101–4669. Sealed bids must be submitted to the Cashier, BLM Montana State Office, at the address given above.

FOR FURTHER INFORMATION CONTACT: Robert Giovanini, Mining Engineer, at 406–896–5084 or Connie Schaff, Land Law Examiner, at 406–896–5060.

SUPPLEMENTARY INFORMATION: This sale is being held in response to a lease by application (LBA) filed by The BNI Coal, Ltd. The Federal coal reserves to be offered consist of all recoverable reserves in the following described lands:

T. 142 N., R. 84 W., 5th P. M.
Sec. 32: N½NW¼, SW¼NW¼, NW¼SW¼.

The 160-acre tract, located in Oliver County, North Dakota, contains an estimated 3.0 million tons of recoverable coal reserves. The tract averages 10.0 feet in thickness with an average overburden depth of 75 feet, 6,669 BTU per pound in heating value, 7.75 percent ash, and 0.88 percent sulfur content.

The tract will be leased to the qualified bidder of the highest cash amount provided that the high bid meets or exceeds the BLM's estimate of the fair market value of the tract. The minimum bid for the tract is $100 per acre or fraction thereof. The minimum bid is not intended to represent fair market value. The fair market value will be determined by the authorized officer after the sale.

The sealed bids should be sent by certified mail, return-receipt requested, or be hand delivered to the Cashier, BLM Montana State Office, at the address given above and clearly marked ''Sealed Bid for NDM 97633 Coal Sale—Not to be opened before 11 a.m. October 15, 2009.'' The cashier will issue a receipt for each hand-delivered bid. Bids received after 10 a.m. will not be considered. If identical high bids are received, the tying high bidders will be requested to submit follow-up sealed bids until a high bid is received. All tie-breaking sealed-bids must be submitted within 15 minutes following the sale official's announcement at the sale that identical high bids have been received. Prior to lease issuance, the high bidder, if other than the applicant, must pay to the BLM the cost recovery fees in the amount of $21,756 in addition to all processing costs the BLM incurs after the date of this sale notice (43 CFR 3473.2).

A lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre, or fraction thereof, and a royalty payable to the United States of 12.5 percent of the value of coal mined by surface methods and 8.0 percent of the value of coal mined by underground methods. Bidding instructions for the tracts offered and the terms and conditions of the proposed coal lease are included in the Detailed Statement of Lease Sale. Copies of the statement and the proposed coal lease are available at the Montana State Office. Casefile NDM 97633 is also available for public inspection at the Montana State Office.

Phillip C. Perlewitz,

Chief, Branch of Solid Minerals.

[FR Doc. E9–21663 Filed 9–8–09; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

B.F. Sisk Dam Corrective Action Project, Merced County, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare an environmental impact statement/environmental impact report (EIS/EIR) and notice of public scoping meeting.

SUMMARY: The Bureau of Reclamation (Reclamation), as the lead federal agency, and the State of California Department of Water Resources (DWR), as the lead state agency, are preparing a joint EIS/EIR, pursuant to the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), respectively, for the B.F. Sisk Dam Corrective Action Project (proposed action). The purpose of the proposed action is to improve public safety by modifying B.F. Sisk Dam to mitigate potential safety concerns identified in the ongoing Corrective Action Study (CAS). Engineering and economic studies are currently being conducted by Reclamation and DWR to determine corrective action alternatives (modifications) that would address potential safety concerns related to structure stability under extreme seismic loading conditions. A scoping meeting will be held to obtain input on alternatives, concerns, and issues to be addressed in the EIS/EIR. Written comments may also be sent, emailed, or faxed.

DATES: A public scoping meeting will be held on Wednesday, September 23, 2009, from 3 p.m. to 7 p.m. at the San Luis Recreation Area, Gustine, CA.

ADDRESSES: The scoping meeting will be held in the conference room at the California Department of Parks and Recreation Four Rivers Sector Office, 31426 Gonzaga Road, Gustine, CA 95322.

Written comments on the scope of the EIS/EIR should be sent by close of business on Tuesday, October 6, 2009 to: Ms. Patti Clinton, Bureau of Reclamation, South-Central California

Area Office, 1243 N Street, Fresno, CA 93721, or via e-mail to *pclinton@usbr.gov*, or by fax to 559–487–5397.

FOR FURTHER INFORMATION CONTACT: Ms. Patti Clinton, Bureau of Reclamation, South-Central California Area Office at the above address or e-mail address, or by phone at 559–487–5127.

SUPPLEMENTARY INFORMATION: B.F. Sisk Dam is a 300-foot-high compacted earthfill embankment located on the west side of California's Central Valley approximately 12 miles west of Los Banos, California. The dam is more than 3½ miles long and impounds San Luis Reservoir, which has a total capacity of over 2 million acre-feet. The dam was built between 1963 and 1967 to provide supplemental irrigation water storage for the Federal Central Valley Project and municipal and industrial water for the California State Water Project. Water is lifted into the reservoir for storage by the Gianelli Pumping-Generating Plant from the California Aqueduct and from the Delta-Mendota Canal via O'Neill Forebay. B.F. Sisk Dam (also known as San Luis Dam) is owned by Reclamation and operated by DWR. Of the total reservoir storage capacity, 55 percent is allotted to State uses and 45 percent is allotted to the Federal uses.

The dam and reservoir are located in an area of high potential for severe earthquake loading from identified active faults, primarily the Ortigalita Fault that crosses the reservoir. In the early 1980s, Reclamation conducted an extensive investigation of the seismic safety of B.F. Sisk Dam. The investigation included drilling holes to sample the soils and test their density in place, laboratory testing of the samples, and geophysical tests. Using the methods available at the time, the amount of deformation that would occur under severe shaking was predicted to be small, and the conclusion was that the dam had no safety deficiencies.

By 2005, the state of the art in seismic analysis of dams had changed significantly, and additional dam safety investigations were performed. These included a reevaluation of the Ortigalita Fault, development of a new understanding of the behavior of the soil materials (including embankment fill) under earthquake loading, and development of new computer-based analysis methods for predicting the behavior of the dam under various loadings. With the updated methods and earthquake loadings, the dam crest was predicted to settle, during the most severe earthquakes, resulting in the height of the dam crest being at the maximum water level in the reservoir.

While the current state of the art of analysis still involves uncertainties and does not permit precise calculation of the amount of settlement that would occur, it is possible (although not likely) that the embankment deformation would exceed the available freeboard, resulting in the reservoir overtopping the embankment and eroding a breach of the dam. Even without overtopping, it is possible that water flowing through cracks in the dam embankment could erode a breach as well.

Reclamation is taking the lead on the CAS. DWR is an active participant and has participated in the Risk Analysis, has reviewed technical documents, and is participating in other CAS activities.

Scoping

Scoping is an open process that assists agencies in determining the scope of the EIS and in identifying potentially significant issues related to the proposed action. Scoping also provides an opportunity to identify alternatives to the proposed action and possible mitigation measures. All interested persons, organizations, and agencies wishing to provide comments, suggestions, or relevant information on the proposed action may do so by sending input by regular mail to Reclamation at the above address; attending and providing comments at the public scoping meeting, or by sending e-mail to the above e-mail address.

Special Assistance for Public Scoping Meeting

If special assistance is required at the public hearings, please contact Ms. Lynnette Wirth at 916–978–5102, or via e-mail at *lwirth@usbr.gov*. Please notify Ms. Wirth as far in advance as possible to enable Reclamation to secure the needed services. If a request cannot be honored, the requestor will be notified. A telephone device for the hearing impaired (TDD) is available at 916–978–5608.

Public Disclosure

Before including your name, 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: July 2, 2009.

Anastasia T. Leigh,

Acting Regional Environmental Officer, Mid-Pacific Region.

[FR Doc. E9–21723 Filed 9–8–09; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Reach 4B, Eastside Bypass and Mariposa Bypass Low Flow Channel and Structural Improvements Project Under the San Joaquin River Restoration Program, Merced County, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) and Notice of Scoping Meetings.

SUMMARY: The Bureau of Reclamation and the California Department of Water Resources (DWR) are proposing to prepare a joint EIS/EIR, pursuant to the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), to evaluate effects of the proposed Reach 4B, Eastside Bypass and Mariposa Bypass Low Flow Channel and Structural Improvements Project (Proposed Action) under the San Joaquin River Restoration Program (SJRRP or Program). The Proposed Action includes the construction, operation, and maintenance of a low flow channel in Reach 4B of the San Joaquin River and in the Eastside and Mariposa bypasses and improvements to facilities in the Eastside and Mariposa bypasses to allow for fish passage. The purpose of the Proposed Action is to comply with the San Joaquin River Settlement by improving conveyance capacity in Reach 4B of the San Joaquin River to ensure conveyance of at least 475 cubic feet per second (cfs), modifying the Eastside and Mariposa bypass channels to establish a low flow channel, and modifying structures in the Eastside and Mariposa bypasses to provide for fish passage. The Proposed Action is a component of the San Joaquin River Settlement.

Scoping meetings will be held to solicit input on alternatives, concerns, and issues to be addressed in the EIS/EIR. Written comments may also be sent.

DATES: Two scoping meetings will be held to solicit comments from interested parties to assist in determining the scope of the environmental analysis,

including the alternatives to be addressed, and to identify the significant environmental issues related to the Proposed Action.

- Wednesday, September 23, 2009, 6 to 8 p.m., Los Banos, California
- Thursday, September 24, 2009, 6 to 8 p.m., Merced, California

Written comments on the scope of the EIS/EIR should be sent by October 9, 2009.

ADDRESSES: The public hearings will be held at:

- *Los Banos:* Miller & Lux Building, 830 6th Street.
- *Merced:* Merced Fairgrounds Rock House Facility, 900 Martin Luther King Jr. Way.

Send written comments to Ms. Margaret Gidding, Bureau of Reclamation, 2800 Cottage Way, MP–170, Sacramento, CA 95825 or via e-mail at *reach4b@restoresjr.net.*

FOR FURTHER INFORMATION CONTACT: Ms. Margaret Gidding at the above address, by telephone at 916–978–5461, TDD 916–978–5608 or via fax at 916–978–5469. Additional information is available online at *http://www.restoresjr.net.* If special assistance is required at the scoping meetings, please contact Ms. Margaret Gidding at the above phone or fax numbers or via e-mail at *mgidding@usbr.gov* no less than ten working days prior to the meetings.

SUPPLEMENTARY INFORMATION: The Proposed Action includes improving conveyance capacity in Reach 4B of the San Joaquin River to ensure conveyance of at least 475 cfs, modifying the Eastside and Mariposa bypass channels to establish a low flow channel, and modifying structures in the Eastside and Mariposa bypasses to provide for fish passage. The following are the applicable Settlement Paragraphs related to the Proposed Action:

- Paragraph 11(a)(3) stipulates channel modifications to Reach 4B to ensure conveyance of at least 475 cfs.
- Paragraph 11(a)(4) stipulates modifications to the San Joaquin River headgates at the upstream end of Reach 4B to ensure fish passage and enable flow routing into Reach 4B.
- Paragraph 11(a)(5) stipulates modifications to the Sand Slough Control Structure to ensure fish passage.
- Paragraph 11(a)(8) stipulates modifications to structures in the Eastside and Mariposa bypass channels to provide anadromous fish passage on an interim basis until a final flow routing is selected and completed.
- Paragraph 11(a)(9) stipulates modifications in the Eastside and Mariposa bypass channels to establish a suitable low-flow channel, if the Secretary of the Interior in consultation with the Restoration Administrator, determines that such modifications are necessary to support anadromous fish migration through these channels.

Because the functions of these channels are interrelated, the design, environmental compliance, and construction are being addressed as one Proposed Action. The planning and environmental review for the Proposed Action is authorized under Section 3406(c)(1) of the Central Valley Project Improvement Act (CVPIA), (Pub. L. 102–575) and the San Joaquin River Restoration Act (SJRRA), included in Public Law 111–11. Construction of the Proposed Action is authorized under Section 10004 of the SJRRA (Pub. L. 111–11). The Proposed Action would be implemented consistent with both the Settlement and the SJRRA, Public Law 111–11.

San Joaquin River Restoration Program

In 1988, a coalition of environmental groups led by the Natural Resources Defense Council (NRDC) filed a lawsuit challenging the renewal of the long-term water service contracts between the United States and the Central Valley Project Friant Division Contractors. After more than 18 years of litigation known as *NRDC, et al.,* v. *Kirk Rodgers, et al.,* the NRDC, Friant Water Users Authority, and the Departments of the Interior and Commerce (Settling Parties) reached agreement on the terms and conditions of the San Joaquin River Settlement (Settlement) which was subsequently approved by the Court on October 23, 2006. The Settlement can be found online at *http://www.restoresjr.net.*

The Settlement is based on two parallel Goals:

- *The Restoration Goal*—To restore and maintain fish populations in ''good condition'' in the main stem of the San Joaquin River below Friant Dam to the confluence of the Merced River, including naturally reproducing and self-sustaining populations of salmon and other fish; and
- *The Water Management Goal*—To reduce or avoid adverse water supply impacts to all of the Friant Division long-term Contractors that may result from the Interim Flows and Restoration Flows provided for in the Settlement.

The Settling Parties acknowledge that accomplishing the Goals requires planning, implementation, and funding of certain activities, such as environmental review, design, and construction. With regard to the Restoration Goal, the Settlement calls for a combination of channel and structural improvements along the San Joaquin River below Friant Dam, releases of additional water from Friant Dam to the confluence of the Merced River, and the reintroduction of spring and/or fall-run Chinook salmon.

The Settlement states that the Secretary of the Interior shall implement the terms and conditions of the Settlement. Additionally, the Settling Parties agreed that implementation of the Settlement shall also require participation of the State of California. Therefore, concurrent with the execution of the Settlement, the Settling Parties entered into a Memorandum of Understanding with the State of California, by and through the California Resources Agency, DWR, the Department of Fish and Game (DFG), and the California Environmental Protection Agency (CalEPA), regarding the State's role in the implementation of the Settlement. The program established to implement the Settlement is the SJRRP, and the ''Implementing Agencies'' responsible for the management of the SJRRP include Reclamation, the U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS), DWR, and DFG. The Federal Implementing agencies (Reclamation, USFWS and NMFS) are authorized to implement the Settlement under the SJRRA included in Public Law 111–11.

A Program Environmental Impact Statement/Environmental Impact Report (PEIS/EIR) is currently being developed for implementation of the SJRRP. If applicable, the EIS/EIR for the Proposed Action will supplement, tier from, incorporate by reference, or adopt relevant NEPA analyses from the PEIS/EIR. The Record of Decision for the PEIS/EIR is anticipated to be signed in 2010.

Public Disclosure

Before including your name, 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: July 13, 2009.

Mike Chotkowski,

Regional Environmental Officer, Mid-Pacific Region.

[FR Doc. E9–21717 Filed 9–8–09; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Preparation of an Environmental Assessment (EA) for Proposed Outer Continental Shelf (OCS) Oil and Gas Lease Sale 215 in the Western Gulf of Mexico Planning Area (2010)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Preparation (NOP) of an EA.

SUMMARY: The purpose of the NOP is to gather information on oil and gas leasing, exploration, and development that might result from an OCS oil and gas lease sale tentatively scheduled for mid-2010.

DATES: Comments must be received no later than October 9, 2009 at the address specified below.

FOR FURTHER INFORMATION CONTACT: For information on the NOP, you may contact Mr. Gary Goeke, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, telephone (504) 736–3233.

Notice of Preparation of an Environmental Assessment

1. Authority

This NOP is published pursuant to the regulations (40 CFR 1501.7) implementing the provisions of NEPA of 1969 as amended (42 U.S.C. 4321 *et seq.* (1988)).

2. Purpose of Notice of Preparation

Pursuant to the regulations implementing the procedural provisions of NEPA, the MMS is announcing its intent to prepare an EA on an oil and gas lease sale tentatively scheduled for mid-2010 in the Western Planning Area (WPA) offshore of Texas and western Louisiana. The MMS is issuing this notice to facilitate public involvement. The preparation of this EA is an important step in the decision process for Lease Sale 215. The proposal for Lease Sale 215 was analyzed in the Gulf of Mexico OCS Oil and Gas Lease Sales: 2009–2012; Central Planning Area Sales 208, 213, 216, and 222; Western Planning Area Sales 210, 215, and 218—Final Supplemental Environmental Impact Statement (Supplemental EIS, OCS EIS/EA MMS 2008–041). This EA for proposed Lease Sale 215 will examine the potential environmental effects of the proposed lease sale and its alternatives (*i.e.,* excluding the unleased blocks near biologically sensitive topographic features; and no action) based on changes and any new relevant information and circumstances regarding potential environmental impacts and issues that were not available at the time the Supplemental EIS was prepared to determine if preparation of a new supplemental EIS is warranted.

3. Supplemental Information

Final delineation of this area for possible leasing will be made at a later date and in compliance with applicable laws, including all requirements of National Environmental Policy Act (NEPA), Coastal Zone Management Act (CZMA) and Outer Continental Shelf Lands Act (OCSLA) and other applicable statutes. Established Departmental procedures will be followed.

The MMS routinely assesses the status of information acquisition efforts and the quality of the information base for potential decisions on a tentatively scheduled lease sale. An extensive environmental studies program has been under way in the Gulf of Mexico (GOM) since 1973. The emphasis, including continuing studies, has been on ''environmental analysis'' of biologically sensitive habitats, physical oceanography, ocean-circulation modeling, ecological effects of oil and gas activities, and hurricane impacts on coastal communities and the environment.

Federal regulations allow for several related or similar proposals to be analyzed in one EIS (40 CFR 1502.4). Each proposed lease sale and its projected activities are very similar each year for each planning area. The Multisale EIS (OCS EIS/EA MMS 2007–018) addressed WPA Lease Sale 204 in 2007, Sale 207 in 2008, Sale 210 in 2009, Sale 215 in 2010, and Sale 218 in 2011; and Central Planning Area (CPA) Lease Sale 205 in 2007, Sale 206 in 2008, Sale 208 in 2009, Sale 213 in 2010, Sale 216 in 2011, and Sale 222 in 2012. However, the Gulf of Mexico Energy Security Act of 2006 repealed the Congressional moratorium on approximately 5.8 million acres located in the southeastern part of the CPA. Therefore, it was necessary to prepare additional NEPA documentation to address the MMS proposal to expand the CPA by the 5.8 million acre area. A single Supplemental Multi-sale EIS was prepared for the remaining seven WPA and CPA lease sales scheduled in the OCS Oil and Gas Leasing Program: 2007–2012 (5-Year Program). In September 2008, MMS published a Supplemental Multi-sale EIS (OCS EIS/EA MMS 2008–041) that addressed seven proposed Federal actions that would offer for lease areas on the GOM OCS that may contain economically recoverable oil and gas resources.

After completion of this EA, MMS will determine whether to prepare a Finding of No Significant Impact (FONSI) or a Supplemental EIS for Sale 215 and subsequent sales. The MMS prepares a Consistency Determination (CD) to determine whether the lease sale is consistent with each affected State's federally-approved Coastal Zone Management program. Finally, MMS will solicit comments via the Proposed Notice of Sale (NOS) from the governors of the affected States on the size, timing, and location of the lease sale. The tentative schedule for the prelease decision process for Lease Sale 215 is as follows: EA/FONSI or Supplemental EIS decision, March–April 2010; CDs will be sent to the affected States 5 months before the lease sale; Proposed NOS sent to the governors of the affected States 5 months before the lease sale; Final NOS, if applicable, will be published in the **Federal Register** in July 2010.

4. Comments

Federal, State, and local government agencies, and other interested parties are requested to send their written comments on the EA, significant issues that should be addressed, and alternatives that should be considered in one of the following two ways:

1. In written form enclosed in an envelope labeled ''Comments on the Lease Sale 215 EA'' and mailed (or hand carried) to the Regional Supervisor, Leasing and Environment (MS 5410), Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

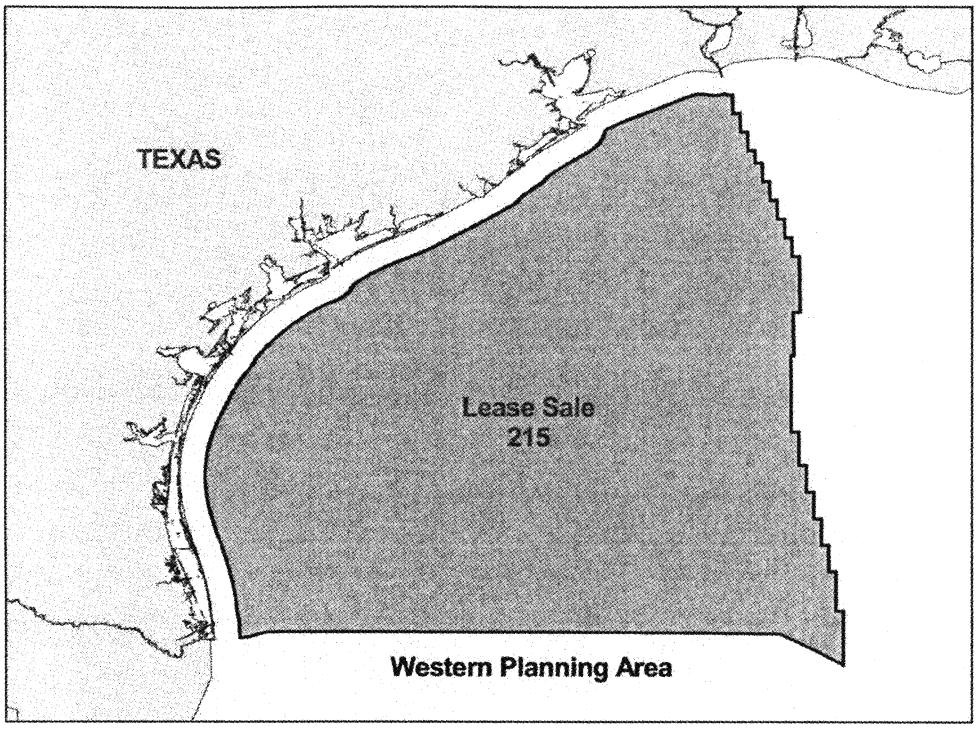
2. Electronically to the MMS e-mail address: *WPALeaseSale215@mms.gov.*

Comments should be submitted no later than 30 days from the publication of this NOP.

Dated: August 24, 2009.

S. Elizabeth Birnbaum,

Director, Minerals Management Service.



[FR Doc. E9–21670 Filed 9–8–09; 8:45 am]
BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–R–2008–N198; 50133–1265–XENP–S3]

Eastern Neck National Wildlife Refuge, Kent County, MD

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: draft comprehensive conservation plan and draft environmental assessment; request for comments.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability of the draft comprehensive conservation plan (CCP) and draft environmental assessment (EA) for Eastern Neck National Wildlife Refuge (NWR), located in Kent County, Maryland, with its office in Rock Hall, Maryland. The draft CCP/EA describes three alternatives, including our Service-preferred alternative B, for managing this refuge for the next 15 years. Also available for public review and comment are the draft compatibility determinations, which are included as appendix B in the draft CCP/EA.

DATES: To ensure our consideration of your written comments, please send them by October 9, 2009. We will also hold a public meeting in Rock Hall, Maryland. We will announce and post details of the public meeting in local news media, via our project mailing list, and on our Regional planning Web site, *http://www.fws.gov/northeast/planning/eastern%20neck/ccphome.html.*

ADDRESSES: Send your comments or requests for copies of the draft CCP/EA by one of the following methods.

U.S. Mail: Nancy McGarigal, Natural Resource Planner, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035.

Fax: Attention: Nancy McGarigal, 413–253–8468.

E-mail: northeastplanning@fws.gov. Please put the words ''Eastern Neck NWR CCP'' in the subject line of your e-mail.

Agency Web site: View or download the draft document on the Web at *http://www.fws.gov/northeast/planning/eastern%20neck/ccphome.html.*

FOR FURTHER INFORMATION CONTACT: Suzanne Baird, Project Leader, Chesapeake Marshlands National Wildlife Refuge Complex, 2145 Key Wallace Drive, Cambridge, MD 21613; phone 410–228–2692, extension 101; fax 410–228–3261; or e-mail at *fw5rw_bwnwr@fws.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

This notice continues the CCP process for Eastern Neck NWR, which is one of the four refuges that comprise the Chesapeake Marshlands NWR Complex. The other three are Blackwater, Martin, and Susquehanna NWRs. We prepared the draft CCP in compliance with the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), and the National Wildlife Refuge System Administration Act of 1966 (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act), which requires us to develop a CCP for each national wildlife refuge. We published our original notice of intent to prepare a CCP in the **Federal Register** on June 11, 2002 (67 FR 40002). Due to changes in budget and staffing priorities, the project was put on hold in 2003. We subsequently announced we were restarting the process by publishing another notice in the **Federal Register** on January 22, 2007 (72 FR 2709).

Eastern Neck NWR is a 2,285-acre island that lies at the confluence of the Chester River and the Chesapeake Bay in Kent County, Maryland. Established in 1962 to protect migratory birds, the refuge is recognized regionally as a major feeding and resting place for a wide variety of migrating and wintering waterfowl. Its habitats are highly diverse, and include tidal marsh, open water, and woodland. Its managed croplands also contribute to the quality of its habitats by providing a ready source of high-energy food for wintering waterfowl when their reserves are low. The moist soil units and green tree reservoirs on the refuge also are managed to enhance habitats for

migratory birds. Thousands of Atlantic population Canada geese and black ducks winter here, as do large rafts of ruddy ducks, canvasbacks, and greater and lesser scaups. Of particular note are the wintering tundra swans that use the adjacent shallow waters. A small number of the federally listed endangered Delmarva fox squirrel (Sciurus niger cinereus) occur on the refuge, as do breeding bald eagles and more than 60 migratory bird species of conservation concern.

Although conserving wildlife and habitat is the refuge's first priority, the public can observe and photograph wildlife, fish, hunt, or participate in environmental education and interpretation programs. To facilitate those activities, we maintain self-guiding trails, fishing and observation platforms, and photography blinds. School groups come throughout the year for our educational and interpretive programs. An annual deer hunt and youth turkey hunt are also very popular activities on the refuge. All programs benefit from the active involvement of the Friends of Eastern Neck and refuge volunteers.

Background

The CCP Process

The Improvement Act requires us to develop a CCP for each national wildlife refuge. The purpose for developing those CCPs is to provide refuge managers with 15-year plans for achieving refuge purposes and the mission of the National Wildlife Refuge System (NWRS), in conformance with sound principles of fish and wildlife management and conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify opportunities for wildlife-dependent recreation available to the public, which includes opportunities for hunting, fishing, observing and photographing wildlife, and participating in environmental education and interpretation programs. We will review and update each CCP at least every 15 years, in accordance with the Improvement Act.

Public Outreach

In conjunction with our first **Federal Register** notice in June 2002, we distributed a newsletter to more than 600 State agencies, organizations, and individuals on our project mailing list, asking about their interest in the refuge and whether they had issues or concerns they would like us to address. At that time, we also held public scoping meetings. In January 2007, along with the release of the newsletter announcing that we were restarting the planning process, we held a public meeting in Rock Hall, Maryland. The purpose of that meeting was to share updated information on the planning process, review the 2002 scoping results, and solicit new management issues and concerns. Throughout the process, we have conducted additional outreach via participation in community meetings, events, and other public forums, and requested public input on managing the refuge and its programs.

Some of the key issues in the public comments include:

- The need to identify the most effective strategies for enhancing habitats for migrating and wintering waterfowl,
- Determining what other species and habitats should be management priorities,
- Deciding how we can best control invasive plants, and
- How to work best with partners to minimize shoreline erosion and the degradation of shallow water habitats.

We considered all of these comments, and incorporated many of them into the varied alternatives in the draft CCP/EA.

CCP Actions We Are Considering, Including the Service-Preferred Alternative

We developed three management alternatives based on the purposes for establishing the refuge; its vision and goals; and the issues and concerns of the public, State agencies, and the Service that arose during the planning process. The alternatives share some actions in common, such as protecting and restoring the refuge shoreline and tidal marsh habitats, protecting nesting bald eagles and the federally listed Delmarva fox squirrel, controlling invasive plants, encouraging research that benefits our resource decisions, protecting cultural resources, distributing refuge revenue sharing payments to Kent County, supporting the Friends of Eastern Neck, and promoting the refuge volunteer program.

Other actions distinguish the alternatives. The draft CCP/EA describes the alternatives in detail, and relates them to the issues and concerns. Highlights follow.

Alternative A (Current Management)

This alternative is the ''No Action'' alternative required by NEPA. Alternative A defines our current management activities, and serves as the baseline for comparing the other alternatives. We would continue to focus our habitat management on protecting the refuge shoreline and restoring tidal marsh habitats in partnership with others. We would also manage cropland on 557 acres, moist soil units on 28 acres, and green tree reservoirs on 38 acres. We would continue to protect 708 acres of mature mixed forest and treat invasive plants as our funding and staffing allow. Our biological monitoring and inventory program would continue at its current levels, focusing on surveys of breeding and wintering birds.

Our visitor services programs would not change; we would continue to facilitate opportunities for fishing, hunting, observing and photographing wildlife, and participating in environmental education and interpretation programs. We would maintain, but not expand, the facilities to support those activities. The seasonal closures in some areas would continue to protect nesting or wintering birds. We would continue to station three permanent staff at Eastern Neck NWR, and access to all refuge complex staff would continue to be available as needed.

Alternative B (Emphasis on Tidal Wetlands and Waterfowl; the Service-Preferred Alternative)

This alternative is the one we propose as the best way to manage Eastern Neck NWR over the next 15 years. It includes an array of management actions that, in our professional judgment, works best toward achieving the refuge purposes, our vision and goals, and the goals of other State and regional conservation plans. We also believe it most effectively addresses the key issues raised during the planning process.

The highest priority of the biological program in alternative B would be to protect the refuge shoreline and tidal marsh. We plan to work with partners to create additional breakwaters and restore 108 acres of native tidal marsh. We would consolidate our cropland management program into 372 acres in fewer, larger fields to increase their use by waterfowl. We would also improve migratory habitat for waterfowl, shorebirds, and marsh birds by creating up to four new moist soil units on 21 acres. As in alternative A, we would continue to monitor refuge forests and wetlands for invasive plants, and make treating them a priority. We would expand our biological monitoring and inventory program, and regularly evaluate its results to help us better understand the implications of our management actions and identify ways to improve their effectiveness. We would expand our support of compatible research programs, and

would encourage the use of the refuge to demonstrate restoration and best adaptive management practices.

We would enhance opportunities for all six priority public uses, and emphasize two of them—wildlife observation and photography. We would seek new partnerships, such as those with environmental educators, to encourage their use of the refuge as a living laboratory and help us improve our programs. The seasonal closures in some areas would continue to protect nesting or wintering birds. Outreach and Service visibility on the refuge and in the local community would improve. We would station two additional staff at Eastern Neck NWR, but, as in alternative A, access to all refuge complex staff would continue to be available as needed.

Alternative C (Emphasis on Tidal Wetlands and Forest Habitat)

As in alternatives A and B, the highest priority in alternative C is to protect and restore the refuge shoreline and tidal marsh. However, its emphasis on managing forest habitat in the refuge uplands to benefit forest-dependent species distinguishes it from alternatives A and B. We would eliminate the cropland program, and would not construct new moist soil units. Instead, we would allow those lands to revert through natural succession to forest, and intervene with treatments when necessary to ensure that a native, healthy, diverse forest results.

We would not begin any other significant new inventorying or monitoring, except established protocols when required by mandates on Federal trust species or when recommended by the Regional biologist. We would permit compatible research programs requested by our partners on refuge lands, but would limit our involvement. As in alternative B, we would encourage the use of the refuge to demonstrate restoration and best adaptive management practices.

Under alternative C, we would offer more visitor services programs and build more infrastructure than in alternatives A or B. We would open for public access the areas previously closed to protect wintering waterfowl. The suitability of those areas for waterfowl would diminish greatly as they revert to forest. We would improve our programs for environmental education, interpretation, and wildlife observation and photography. We would hold teacher workshops, become actively involved in developing local school programs using the refuge, and promote senior education programs. We would consider a new trail and boat launch at the south end of the island, and would expand the turkey hunt by opening it to adult hunters for a limited time. As in alternative B, we would improve Service outreach and visibility, and station two new staff at the refuge.

Public Meetings

We will give the public opportunities to provide input at one public meeting in Rock Hall, Maryland. You can obtain the schedule from the project leader or natural resource planner (see **ADDRESSES** or **FOR FURTHER INFORMATION CONTACT**, above). You may also submit comments at any time during the planning process, by any means shown in the **ADDRESSES** section.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 7, 2009.

Salvatore M. Amato,

Acting Regional Director, U.S. Fish and Wildlife Service, Hadley, MA 01035.

[FR Doc. E9–21737 Filed 9–8–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLUTG01100–09–L13100000–EJ0000]

Notice of Intent To Prepare an Environmental Impact Statement for the Greater Chapita Wells Natural Gas Infill Project, Uintah County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management (BLM), Vernal Field Office, Vernal, Utah, intends to prepare an Environmental Impact Statement (EIS) for the proposed Greater Chapita Wells Natural Gas Infill Project, and by this notice is announcing the beginning of the scoping process and soliciting input on the identification of issues.

DATES: A public scoping period will end on October 9, 2009. The BLM will announce public scoping meetings to identify relevant issues through local news media, newsletters, and the BLM Web site *http://www.blm.gov/ut/st/en/info/newsroom.2.html* at least 15 days prior to each meeting. We will provide additional opportunities for public participation upon publication of the Draft EIS, including a 45-day public comment period.

ADDRESSES: Comments on issues related to the Greater Chapita Wells EIS may be submitted through any of the following methods:

- *E-mail: UT_Vernal_Comments@blm.gov.*
- *Fax:* (435) 781–4410.
- *Mail:* 170 South 500 East, Vernal, Utah 84078.

Documents pertinent to this proposal may be examined at the Vernal Field Office.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to the mailing list, contact Stephanie Howard by telephone: (435) 781–4469; or e-mail: *Stephanie_Howard@blm.gov.*

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM Field Office, Vernal, Utah intends to prepare an EIS for the Greater Chapita Wells project and announces the beginning of the scoping process and seeks public input on issues and planning criteria. The Greater Chapita Wells Natural Gas Infill Project Area (GCWPA) consists of 42,027 acres in a developed gas-producing area, located approximately 30 miles southeast of Vernal and 12 miles east of Ouray, Utah. The GCWPA is located in the Uinta Basin in Uintah County. The GCWPA includes 32,823 acres (78 percent) of Federal lands administered by the BLM; 1,914 acres (five percent) of State lands administered by the State of Utah School and Institutional Trust Lands Administration; 6,727 acres (16 percent) of Northern Ute Tribal and allotted lands administered by the Bureau of Indian Affairs; and 563 acres (one percent) of privately owned lands.

EOG Resources, Inc. (EOG) plans to drill up to 7,028 new infill natural gas wells to fully develop all currently known productive formations beneath EOG's leased acreage. EOG proposes to drill wells at an average rate of approximately 469 wells per year over a period of 15 years, or until the resource base is fully developed. The productive life of each well would be approximately 40 years, and EOG expects all wells to be productive. EOG would use the existing infrastructure to the greatest possible extent by drilling vertical and directional wells. Well pads within the GCWPA would contain from one to six wells, with most well pads

containing more than one well. EOG would construct up to approximately 700 new well pads and access roads and would expand approximately 979 existing or previously authorized well pads. If fully developed, each section would contain 32 well pads such that optimal surface density would be one well pad every 20 acres. EOG would directionally drill wells to produce from bottom hole locations spaced at approximately five to 10 acres.

The project would be supported by existing produced water disposal and treatment facilities, produced water pipelines, natural gas pipelines, and gas compression and processing facilities. EOG would construct and install support facilities where needed, including new well pad access roads, new or expanded well pads, new gas-gathering lines, and new produced water-injection wells.

Potential issues include impacts to local and regional air quality and air quality related values; surface water and groundwater resources; floodplains; cultural and paleontological resources; soils; special status plant and animal species; range management; recreation; and socioeconomics. Alternatives identified at this time include the proposed action and the no action alternative. Additional alternatives will be developed as a result of issues and concerns identified through the scoping process.

The BLM Vernal Field Office Record of Decision and Approved Resource Management Plan (RMP) (October 2008) directs the management of the BLM-administered public lands within the GCWPA. The RMP provides for energy resource exploration and development including a variety of oil and gas operations and geophysical explorations, unless precluded by other program prescriptions and surface-disturbance related stipulations (RMP, pp. 96 and 97).

Comments on issues and planning criteria may be submitted in writing to the BLM at any public scoping meeting, or using one of the methods listed in the **ADDRESSES** section above. To be most helpful, comments should be submitted by the end of the public scoping period (within 30 days from the BLM's publication in the **Federal Register**). Before including an address, phone number, e-mail address, or other personal identifying information in your comment, be aware that the entire comment—including personal identifying information—may be made publicly available at any time. While a request can be made to withhold personal identifying information from public review, it cannot be guaranteed.

Jeff Rawson,

Acting State Director.

[FR Doc. E9–21661 Filed 9–8–09; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

National Park Service

Concessions Management Advisory Board, Meeting

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that a meeting of the Concessions Management Advisory Board will be held on October 21–22, starting at 9 a.m. each day at The Ahwahnee Hotel, Yosemite National Park, California.

DATES: Wednesday, October 21 and Thursday, October 22, 2009.

ADDRESSES: Tudor Room of The Ahwahnee Hotel, Yosemite National Park, California 95389. Park phone number: (209) 372–0200.

FOR FURTHER INFORMATION CONTACT: National Park Service, WASO Commercial Services Program, 1201 Eye Street, NW., 11th Floor, Washington, DC 20005, telephone: 202/513–7150.

SUPPLEMENTARY INFORMATION: The Concessions Management Advisory Board (the Board) was established by Title IV, Section 409 of the National Parks Omnibus Management Act of 1998, November 13, 1998 (Pub. L. 105–391). The purpose of the Board is to advise the Secretary and the National Park Service on matters relating to management of concessions in the National Park System. The Board will meet at 9 a.m. Wednesday, October 21, and 9 a.m. on Thursday, October 22, for the regular business meeting and continued discussion on a number of subjects that will include:

- Concession Contracting Status Update.
- Regional Reports.
- Rate Approval Review and Standards, Evaluations, and Rate Approval Project Update.
- Cooperating Association Steering Committee Report.
- Report on Professionalization of Commercial Services Program—Human Capital Strategy.
- New business.

The meeting will be open to the public, however, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come-first-served basis.

Assistance to Individuals With Disabilities at the Public Meeting

The meeting site is accessible to individuals with disabilities. If you plan to attend and will require an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least 2 weeks before the scheduled meeting date. Attempts will be made to meet any request(s) we receive after that date, however, we may not be able to make the requested auxiliary aid or service available because of insufficient time to arrange for it.

Anyone may file with the Board a written statement concerning matters to be discussed. The Board may also permit attendees to address the Board, but may restrict the length of the presentations, as necessary to allow the Board to complete its agenda within the allotted time. Such requests should be made to the Director, National Park Service, Attention: Chief, Commercial Services Program, at least 7 days prior to the meeting. Draft minutes of the meeting will be available for public inspection approximately 6 weeks after the meeting, at the Commercial Services Program office located at 1201 Eye Street, NW., 11th Floor, Washington, DC.

Dated: August 26, 2009.

Daniel N. Wenk,

Acting Director.

[FR Doc. E9–21632 Filed 9–8–09; 8:45 am]

BILLING CODE M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDB00000 L11500000.CB0000 LXSS024D0000: 4500008921]

Notice of Public Meeting: Resource Advisory Council to the Boise District, Bureau of Land Management, U.S. Department of the Interior

AGENCY: Bureau of Land Management, U.S. Department of the Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Boise District Resource Advisory Council (RAC), will hold a meeting as indicated below.

DATES: The meeting will be held October 7, 2009 at the Boise District Offices beginning at 9 a.m. and adjourning at 4 p.m. Members of the public are invited to attend, and comment periods will be held during the course of the day.

FOR FURTHER INFORMATION CONTACT: MJ Byrne, Public Affairs Officer and RAC Coordinator, BLM Boise District, 3948 Development Ave., Boise, ID 83705, Telephone (208) 384–3393.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in southwestern Idaho. Items on the agenda will include update on development of the Gateway West 500KV Electrical Transmission Lines, and accompanying Environmental Impact Statement (EIS); an update on the status of Economic Recovery and Reinvestment Act of 2009 (ARRA) projects in the Boise District; a review of public comments received on draft alternatives for the EIS for the Four Rivers Field Office Resource Management Plan (RMP), and; updates to the charters of some existing and new subgroups to be formed will be reported on. Hot Topics, including an update on actions related to the Owyhee Management Act, will be discussed by the District Manager. Field Office managers will provide highlights for discussion on activities in their offices. Agenda items and location may change due to changing circumstances. The RAC will be invited to observe a BLM gather of wild horses from one of the District's Herd Management Areas scheduled to take place during the month of October. If the gather lands on the date of the RAC meeting, the agenda will be changed to accommodate this activity. All RAC meetings are open to the public. The public may present written or oral comments to members of the Council. At each full RAC meeting time is provided in the agenda for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, should contact the BLM Coordinator as provided above.

Dated: September 2, 2009.

David Wolf,

Acting District Manager.

[FR Doc. E9–21739 Filed 9–8–09; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOS05400–L17110000 PA000 LXSIGGCA0000]

Notice of Proposed Supplementary Rules for Public Lands in Colorado: Gunnison Gorge National Conservation Area (GGNCA) and Adjacent Public Lands Administered by the Bureau of Land Management Uncompahgre Field Office, Montrose and Delta Counties, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed supplementary rules for the GGNCA and adjacent public lands in southwestern Colorado.

SUMMARY: Bureau of Land Management (BLM) Colorado is proposing supplementary rules for the GGNCA and adjacent public lands included in the 2004 GGNCA Resource Management Plan (RMP) and managed by the GGNCA and Uncompahgre Field Offices in Montrose and Delta Counties, Colorado. The rules implement decisions found in the RMP and relate to the use of the lands, conduct, health and safety of public land users, and protection of natural resources. The proposed rules address off-road vehicle use and safety, firearms, hunting and target shooting, pets and pack stock use, camping, waste disposal, group size limits, permit requirements, and length of stay. These supplementary rules will be added to the current rules in effect for the GGNCA, Gunnison Gorge Wilderness, and adjacent public lands. The supplementary rules will be enforced by BLM law enforcement rangers.

DATES: Please send comments to the following address by November 9, 2009. Comments received or postmarked after this date may not be considered in the development of the final supplementary rules.

ADDRESSES: Please mail or hand-deliver comments to Karen Tucker, GGNCA, BLM Uncompahgre Field Office, 2465 S. Townsend Avenue, Montrose, Colorado 81401.

FOR FURTHER INFORMATION CONTACT: Karen Tucker, GGNCA (970) 240–5300, e-mail: *karen_tucker@blm.gov* or Ted Moe, BLM Law Enforcement Ranger, (970) 240–5341, e-mail: *ted_moe@blm.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Written comments on the proposed supplementary rules should be specific, confined to issues pertinent to the proposed supplementary rules, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the rules that the comment is addressing. The BLM is not obligated to consider or include in the Administrative Record for the final rules comments that are postmarked or electronically dated after the close of the comment period (see **DATES**) or comments delivered to an address other than the address listed above (See **ADDRESSES**).

Comments, including names, street addresses, and other contact information of respondents, will be available for public review at the BLM Uncompahgre Field Office, 2465 S. Townsend Avenue, Montrose, Colorado 81401. 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.

II. Background

These proposed supplementary rules apply to the Gunnison Gorge National Conservation Area (GGNCA), approximately 62,844 acres of public lands that include the 17,784-acre Gunnison Gorge Wilderness, and 32,937 acres of adjacent public lands managed under the GGNCA management plan. The GGNCA was established by Public Law 106–76 on October 21, 1999.

The GGNCA is located 10 miles north of Montrose, Colorado, bordered by the Black Canyon of the Gunnison National Park to the south. The proposed supplementary rules will help the BLM achieve management objectives and implement decisions in the GGNCA Resource Management Plan (RMP) approved on November 12, 2004. These supplementary rules will also allow the BLM to increase law enforcement efforts that will help mitigate damage to natural resources and provide for public health and safe public recreation.

III. Discussion of the Proposed Supplementary Rules

These proposed supplementary rules apply to a total of 95,781 acres of public lands managed by the BLM within the GGNCA RMP planning area. The area includes 62,844 acres of National Conservation Area (NCA) lands and 32,937 acres of non-NCA lands within

Montrose and Delta Counties, Colorado, in the following townships:

Colorado, Sixth Principal Meridian

T. 14 S., R. 95 W. through 93 W.
T. 15 S., R. 95 W. through 93 W.

New Mexico Principal Meridian

T. 51 N., R. 10 W. through 7 W.
T. 50 N., R. 10 W. through 6 W.
T. 49 N., R 9 W. through 8 W.

These rules are consistent with the Record of Decision of the 2004 GGNCA RMP. In preparing the RMP, the BLM sought public review of four alternatives.

The RMP objectives are to protect the GGNCA's and adjacent public lands' natural settings and outstanding wilderness, geologic, cultural, scientific, wildlife, and recreational values, while providing the public a safe and enjoyable experience. An additional objective of the supplementary rules is to protect BLM employees and volunteers charged with maintaining and improving the condition of these natural resources and protect the BLM's investment in recreational facilities, signs, roads and other amenities provided for visitor enjoyment. The goals are to encourage users to obey all rules and regulations in order to increase visitor safety; prevent accidents; reduce human health and sanitation concerns; protect natural and cultural resources; eliminate motorized and non-motorized impacts on sensitive species habitat; reduce conflicts among user groups; and eliminate illegal uses such as vandalism, poaching, bonfires, underage drinking and drug parties, and any unruly behavior that may lead to any of these uses.

The RMP includes specific management actions that restrict certain activities and define allowable uses. The proposed supplementary rules implement these management actions within the GGNCA and adjacent public lands. Many of the proposed supplementary rules apply to the entire area but some apply only to specific areas within the GGNCA. The proposed rules are written to allow for management flexibility.

Rules that limit group size and stay length, restrict camping to designated sites, prohibit the collection of firewood and building of wood fires, and require the use of portable toilets, stoves and/or metal fire containers, are essential to provide maximum protection of the area's wilderness and wild and scenic river values, native riparian vegetation, sensitive wildlife and plant species, and to ensure successful implementation of BLM restoration projects. General travel and off-highway vehicle use regulations implement key RMP decisions intended to enhance user safety and ensure compliance with travel management restrictions to protect critical resources and scenic values in different management areas within the GGNCA and adjacent public lands.

The implementation of these rules in the GGNCA and on adjacent public lands is a major step in providing the resources necessary to meet these goals and objectives. The Uncompaghre Field Office proposes to add these additional supplementary rules to the current rules in effect for the GGNCA and adjacent public lands under the Federal Land Policy and Management Act (FLPMA), Title 43 U.S.C. 1740, and Title 43 CFR 8365.1–6.

IV. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These supplementary rules are not significant regulatory actions and not subject to review by the Office of Management and Budget under Executive Order 12866. These supplementary rules will not have an annual effect of $100 million or more on the economy. They will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. These supplementary rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The supplementary rules do not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients, nor do they raise novel legal or policy issues. These supplementary rules are merely rules of conduct for public use of a limited area of public lands.

Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. The BLM invites your comments on how to make these proposed supplementary rules easier to understand, including answers to questions such as the following:

(1) Are the requirements in the proposed supplementary rules clearly stated?

(2) Do the proposed supplementary rules contain technical language or jargon that interferes with their clarity?

(3) Does the format of the proposed supplementary rules (grouping and order of sections, use of headings, paragraphing, *etc.*) aid or reduce their clarity?

(4) Would the proposed supplementary rules be easier to understand if they were divided into more (but shorter) sections?

(5) Is the description of the proposed supplementary rules in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the proposed supplementary rules? How could this description be more helpful in making the proposed supplementary rules easier to understand?

Please send any comments you may have on the clarity of the proposed supplementary rules to one of the addresses specified in the **ADDRESSES** section.

National Environmental Policy Act

The proposed supplementary rules put forth in this notice implement key land use planning decisions in the Approved GGNCA RMP and Record of Decision signed by the BLM State Director of Colorado in November 2004. The four-year RMP process included extensive public input and development of a draft and Proposed RMP and Final Environmental Impact Statement (EIS) for the GGNCA and Gunnison Gorge Wilderness, which was completed in January 2004. During the National Environmental Policy Act process, each alternative was fully analyzed, including the types of decisions set forth in these supplemental rules. The rationale for the decisions made can be found in Chapter 5, Environmental Consequences. The BLM has placed the Final EIS, Approved RMP, and Record of Decision on file in the BLM Administrative Record at the address specified in the **ADDRESSES** section.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA) of 1980, as amended, 5 U.S.C. 601–612, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The proposed supplementary rules do not have a significant economic impact on entities of any size, but provide for the protection of persons, property, and resources on specific public lands. Therefore, the BLM has determined under the RFA that the proposed supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

These supplementary rules are not ''major'' as defined under 5 U.S.C. 804(2). The supplementary rules merely establish rules of conduct for public use of a limited area of public lands and do not affect commercial or business activities of any kind.

Unfunded Mandates Reform Act

These supplementary rules do not impose an unfunded mandate on State, local, or tribal governments in the aggregate, or the private sector of more than $100 million per year; nor do they have a significant or unique effect on small governments. The rules have no effect on governmental or tribal entities and would impose no requirements on any of these entities. The supplementary rules merely establish rules of conduct for public use of a limited selection of public lands and do not affect tribal, commercial, or business activities of any kind. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq*.).

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

These supplementary rules do not have significant takings implications, nor are they capable of interfering with Constitutionally protected property rights. The supplementary rules merely establish rules of conduct for public use of a limited area of public lands and do not affect anyone's property rights. Therefore, the Department of the Interior has determined that these rules will not cause a ''taking'' of private property or require preparation of a takings assessment under this Executive Order.

Executive Order 13132, Federalism

These supplementary rules will not have a substantial direct effect on the States, the relationship between the national government and the States, nor the distribution of power and responsibilities among the various levels of government. These supplementary rules do not come into conflict with any State law or regulation. Therefore, in accordance with Executive Order 13132, the BLM has determined that these supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Office of the Solicitor has determined that these rules will not unduly burden the judicial system and that they meet the requirements of sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that these supplementary rules do not include policies that have tribal implications. None of the lands included in these rules are Indian lands or affect Indian rights.

Paperwork Reduction Act

These supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq*. Any information collection requirements contained in these rules are exempt from the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3518(c)(1). Federal criminal investigations or prosecutions may result from these rules, and the collection of information for these purposes is exempt from the Paperwork Reduction Act.

Supplementary Rules for the Gunnison Gorge National Conservation Area (GGNCA) and Adjacent Public Lands

These supplementary rules apply, except as specifically exempted, to activities within the GGNCA and adjacent public lands administered by the Bureau of Land Management (BLM) near Montrose, Colorado. These supplementary rules are in effect on a year-round basis and will remain in effect until modified by the authorized officer.

1. General Travel Management

a. You must not enter an area designated as closed by a BLM sign or map.

b. You must not use roads and/or trails by motorized or mechanized vehicle or equestrian or pedestrian travel except where designated as open to such use by a BLM sign or map.

c. You must not park in areas not designated for parking by a BLM sign or map.

d. You must not launch or operate any motorized watercraft within the GGNCA or adjacent public lands.

e. You must not operate any vehicle that produces sound exceeding 96 decibels.

f. You must not operate an off-highway vehicle (OHV) with any object or person attached or being towed in any manner unless the off-road vehicle (ORV) is designed and manufactured for such purposes.

2. Vehicle Size and Trail Width

a. You must not operate any vehicle except a motorcycle, ATV, or a UTV (50 inches in width or less) for motorized cross-country travel and/or play within the Flat Top-Peach Valley Recreation Area designated open areas.

b. You must not operate any vehicle greater than 50 inches in width on any designated ATV/UTV routes.

c. You must not operate any vehicle greater than 36 inches in width on any designated single track routes.

3. Firearms, Hunting, Target Shooting and Fireworks

a. Within the GGNCA, you must not discharge a firearm of any kind, including those used for target shooting. Licensed hunters in legitimate pursuit of game during the proper season with appropriate firearms, as defined by the Colorado Division of Wildlife, are exempt from this rule.

b. On public lands adjacent to the GGNCA, you must not target shoot in areas closed to that use by a BLM sign or map.

c. Target shooters must not shoot or discharge any weapon at any object containing glass, or other target material that can shatter and cause a public safety hazard as a result of the projectile impact or explosion.

d. You must not engage in any activities involving the use of paintballs.

e. Persons who shoot or discharge any weapon must remove and properly dispose of all shooting materials, including spent brass or shells, their containers, and any items used as targets.

f. You must not discharge any weapon within 500 yards of any developed recreation site or any other area that has been closed to discharge of firearms.

g. You must not possess or discharge any fireworks.

4. Pets and Pack Stock

a. You must not bring any animal into the GGNCA that is not controlled by visual, audible, or physical means.

b. You must not leave any pets and/or pack stock unattended.

c. You must remove and properly dispose of pet and/or pack stock solid waste when and where indicated by a BLM sign or map.

5. Special Recreation Permits and Registration

a. You must register, purchase permits, and possess proof of permits as indicated by BLM sign or map.

b. If you use the Gunnison Gorge Wilderness as ingress to or egress from the Black Canyon National Park, you must register and purchase a Gunnison Gorge Wilderness permit and possess proof of the permit while in the Wilderness.

6. Group Size Limits

Exceeding group size limits, as indicated by a BLM sign or map, is prohibited.

7. Camping

a. You must not camp in sites or areas not designated as open to camping by a BLM sign or map.

b. Within the Gunnison Gorge Wilderness you must not camp in any site other than the designated campsite(s) reserved by you or your group through the Gunnison Gorge permit system.

c. In designated campsites or camping areas, you must maintain quiet within normal hearing range of any other person or persons, between 10 p.m. and 6 a.m. in accordance with applicable state time zone standards.

d. You must not leave personal belongings overnight in an unattended campsite.

e. You must keep campsites free of trash, litter and debris during the period of occupancy and shall remove all personal equipment and clean sites upon departure.

8. Length of Stay

a. Exceeding length of stay limits, as indicated by a BLM sign or map, is prohibited.

b. The hours of operation are sunrise to sunset in any area that is for day-use only as indicated by a BLM sign or map. You must not enter or remain in such an area after sunset or before sunrise.

9. Campfires and Wood Collecting

a. You must not cut, collect, or use live, dead or down wood except in areas designated open to such use by a BLM sign or map.

b. You must not start or maintain a fire in sites or areas not designated as open for such use by a BLM sign or map.

c. Where allowed, any fire must be fully contained in a metal fire grate, fire pan, or other metal device to contain ashes. Mechanical stoves and other appliances that are fueled by gas and equipped with a valve that allows the operator to control the flame, are among the devices that meet this requirement.

d. When starting or maintaining a fire outside of a developed recreation site, you must not fail to contain and dispose of fire ashes and debris in the manner indicated by a BLM sign or map.

e. You must not burn wood or other material containing nails, glass, or any metal.

10. Human Waste Disposal

You must dispose of solid human waste as indicated by a BLM sign or map.

11. Other Use Authorizations

You must not violate any terms, conditions or stipulations of any permit or other authorization issued for special use of these public lands.

Exemptions: The following persons are exempt from these supplementary rules: any Federal, State, local and/or military employee in the scope of their duties; members of any organized rescue or fire-fighting force in performance of an official duty; and persons, agencies, municipalities, or companies holding an existing special-use permit inside the GGNCA and operating within the scope of their permit.

Definitions: For the purpose of these supplementary rules, the following definitions apply unless modified within a specific part or regulation:

Adjacent public lands means those non-GGNCA BLM public lands immediately adjacent to the GGNCA and/or the Black Canyon of the Gunnison National Park whose management is addressed under the 2004 GGNCA RMP. These lands include: Black Ridge, Fruitland Mesa, West Peach Valley, Flat Top, East Flat Top, and Jones Draw lands.

All Terrain Vehicle (ATV) or Utility Terrain Vehicle (UTV) means off-road vehicles 50 inches or less in overall width and weighing no more than 800 pounds.

Camping means erecting a tent or a shelter of natural or synthetic materials, preparing a sleeping bag or other bedding material for use, or parking a motor vehicle, motor home, or trailer for the purpose or apparent purpose of overnight occupancy while engaged in recreational activities such as hiking, hunting, fishing, bicycling, sightseeing, off-road vehicle activities, or other generally recognized forms of recreation.

Designated campsite or site means a specific location identified by the BLM for camping or other purposes. Designated sites include individual sites in developed campgrounds that contain picnic tables, shelters, parking sites, and/or grills; dispersed campsites containing a sign and natural or man-made parking barricades denoting a designated camping area; and other use areas specifically designated by signs for use by a certain user type including, but not limited to hikers, boaters, equestrians, commercial outfitters, organized groups, or off-highway vehicle HV users.

Designated route means roads and trails open to motorized vehicle use and identified on a map of designated roads and trails that is maintained and available for public inspection at the BLM Uncompahgre Field Office, Montrose, Colorado. Designated roads and motorized trails are open to public use in accordance with such limits and restrictions as are, or may be, specified in the RMP or in future decisions implementing the RMP. However, any road or trail with any restrictive signing or physical barrier, including gates, fences, posts, branches, or rocks intended to prevent use of the road or trail is not a designated motorized road or motorized trail.

Developed recreational site means any site or area that contains structures or capital improvements primarily used by the public for recreation purposes. Such areas or sites may include such features as: delineated spaces or areas for parking, camping or boat launching; sanitation facilities; potable water; grills or fire rings; tables; or controlled access.

Flat Top-Peach Valley Recreation Area means the Flat Top-Peach Valley Special Recreation Management Area designated in the 2004 GGNCA RMP. The recreation area contains developed recreation sites, open riding areas where cross-country travel is permitted, and designated routes and encompasses approximately 9,754 acres of public lands in Montrose County including lands both within and outside the GGNCA.

Gunnison Gorge Wilderness means the congressionally designated Wilderness area within the GGNCA. The Wilderness is managed by the BLM as a Special Recreation Management Area and encompasses approximately 17,784 acres of public lands in Montrose and Delta counties.

Gunnison Gorge permit system means the mandatory self-issuing special recreation permit (SRP) and registration system that applies to all users 16 years of age and older in the Gunnison Gorge Wilderness. Users are required to sign in at a Wilderness trailhead or the Chukar boater put-in site, pay applicable day-use or camping fees, and reserve the designated boater or hiker campsite(s) they intend to use during their stay.

Motorized watercraft means any craft operated upon water that is self-propelled by a non-living power source, including electric power.

Off-highway vehicle (OHV) or off-road vehicle (ORV) means any motorized vehicle capable of, or designated for, travel on or immediately over land, water, or other natural terrain, excluding: (1) Any non-amphibious registered motorboat; (2) any military, fire, emergency, or law enforcement vehicle while being used for emergency purposes: (3) any vehicle whose use is expressly authorized by the authorized officer, or otherwise officially approved; (4) vehicles in official use; and (5) any combat or combat-support vehicle when used in times of national defense emergencies.

Utility Terrain Vehicle (UTV) means any multi-passenger off-highway vehicle most commonly known as UTVs (Utility Terrain Vehicle or just Utility Vehicle) or Side-by-Side Vehicles; they are also known as SxS, RUV (Recreational Utility Vehicle) or MUV (Multi-Use Vehicle). They are called Side-by-Side Vehicles because a driver and passenger(s) sit side-by-side in the vehicle.

Penalties: Any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both. 43 U.S.C. 1733(a); 43 CFR 8360.0–7. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Lynn E. Rust,

Acting State Director.

[FR Doc. E9–21659 Filed 9–8–09; 8:45 am]

BILLING CODE 4310–JB–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–458 and 731–TA–1154 (Final)]

Certain Kitchen Appliance Shelving and Racks From China

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines,[2] pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)) (the Act), that the refrigeration shelving industry in the United States is materially injured and the oven racks industry in the United States is threatened with material injury by reason of imports from China of certain kitchen appliance shelving and racks,[3] [4] provided for in subheadings 7321.90.50, 7321.90.60, 8418.99.80, and 8516.90.80 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be subsidized by the Government of China and sold in the United States at less than fair value (LTFV). In addition, the Commission determines that it would not have found material injury with regard to imports of oven racks from China but for the suspension of liquidation.

Background

The Commission instituted these investigations effective July 31, 2008, following receipt of a petition filed with the Commission and Commerce by Nashville Wire Products Inc., Nashville, TN, SSW Holding Company, Inc., Elizabethtown, KY, the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied-Industrial and Service Workers International Union, and the International Association of Machinists and Aerospace Workers, District Lodge 6, Clinton, IA. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of certain kitchen appliance shelving and racks from China were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 21, 2009 (74 FR 18249). The hearing was held in Washington, DC, on July 16, 2009, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on September 2, 2009. The views of the Commission are contained in USITC Publication 4098 (August 2009), entitled *Certain Kitchen Appliance Shelving and Racks From China: Investigation Nos. 701–TA–458 and 731–TA–1154 (Final).*

Issued: September 2, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–21692 Filed 9–8–09; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Deanna Tanner Okun recused herself to avoid any conflict of interest or appearance of a conflict.

[3] The Commission finds two domestic industries, one producing refrigeration shelving and one producing oven racks.

[4] Vice Chairman Daniel R. Pearson, dissenting with regard to imports of certain oven racks from China, finds that the oven racks industry in the United States is neither materially injured nor threatened with material injury by reason of imports from China.

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Meeting of the Advisory Committee; Meeting

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Executive Director of the Joint Board for the Enrollment of Actuaries gives notice of a closed meeting of the Advisory Committee on Actuarial Examinations.

DATES: The meeting will be held on October 23, 2009, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at Sonnenschein Nath & Rosenthal LLP, 4520 Main Street, Suite 1100, Kansas City, MO.

FOR FURTHER INFORMATION CONTACT: Patrick W. McDonough, Executive Director of the Joint Board for the Enrollment of Actuaries, 202–622–8225.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at Sonnenschein Nath & Rosenthal LLP, 4520 Main Street, Suite 1100, Kansas City, MO on Friday, October 23, 2009, from 8:30 a.m. to 5 p.m.

The purpose of the meeting is to discuss questions that may be recommended for inclusion on future Joint Board examinations in actuarial mathematics, pension law and methodology referred to in 29 U.S.C. 1242(a)(1)(B).

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., that the subject of the meeting falls within the exception to the open meeting requirement set forth in Title 5 U.S.C. 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: August 28, 2009.

Patrick W. McDonough,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. E9–21664 Filed 9–8–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0082]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Certification of Knowledge of State Laws, Submission of Water Pollution Act.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until November 9, 2009. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Debra Satkowiak, Chief, Explosives Industry Programs Branch, Room 6E405, 99 New York Avenue, NE., Washington, DC 20226.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Certification of Knowledge of State Laws, Submission of Water Pollution Act.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. *Other:* None. Persons who apply for a permit to purchase explosives intrastate must certify in writing that he is familiar with and understands all published State laws and local ordinances relating to explosive materials for the location in which he intends to do business; and submit the certificate required by section 21 of the Federal Water Pollution Control Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 50,000 respondents will take a estimated time of 30 seconds to submit the required information.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 416 annual total burden hours associated with this collection.

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

Dated: September 2, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. E9–21648 Filed 9–8–09; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0079]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Transactions Among Licensee/Permittees and Transactions Among Licensees and Holders of User Permits.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until November 9, 2009. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Debra Satkowiak, Chief, Explosives Industry Programs Branch, Room 6E405, 99 New York Avenue, NE., Washington, DC 20226.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,*

permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Transactions Among Licensee/Permitees and Transactions Among Licensees and Holders of User Permits.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* None. The Safe Explosives Act requires an explosives distributor must verify the identity of the purchaser; an explosives purchaser must provide a copy of the license/permit to distributor prior to the purchase of explosive materials; possessors of explosive materials must provide a list of explosives storage locations; purchasers of explosive materials must provide a list of representatives authorized to purchase on behalf of the distributor; and an explosive purchaser must provide a statement of intended use for the explosives.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 50,000 respondents will take 30 minutes to comply with the required information.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 25,000 annual total burden hours associated with this collection.

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

Dated: September 2, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. E9–21650 Filed 9–8–09; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0081]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Appeals of Background Checks.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until November 9, 2009. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Chris Reeves, Chief, Federal Explosives Licensing Center, 244 Needy Road, Martinsburg, WV 25405.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Appeals of Background Checks.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* Individuals or households. The purpose of the collection is to allow applicants, employees, or other affected personnel the opportunity to appeal in writing the results of a background check conducted to satisfy their eligibility to possess explosive materials. The appeal request must include appropriate documentation or record(s) establishing the legal and/or factual basis for the challenge.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 500 respondents will spend 2 hours completing the required documentation for the appeal.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 1,000 annual total burden hours associated with this collection.

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

Dated: September 2, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. E9–21649 Filed 9–8–09; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0074]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: List of Responsible Persons.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until November 9, 2009. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Debra Satkowiak, Chief, Explosives Industry Programs Branch, Room 6E405, 99 New York Avenue, NE., Washington, DC 20226.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* List of Responsible Persons.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. *Other:* Business or other-profit. All persons holding ATF explosives licenses or permits must report any change in responsible persons or employees authorized to possess explosive materials to ATF. Such report must be submitted within 30 days of the change and must include appropriate identifying information for each responsible person.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 50,000 respondents will take 1 hour to complete the report.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 100,000 annual total burden hours associated with this collection.

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

Dated: September 2, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. E9–21653 Filed 9–8–09; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0076]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Relief of Disabilities.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until November 9, 2009. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Debra Satkowiak, Chief, Explosives Industry Programs Branch, Room 6E405, 99 New York Avenue, NE., Washington, DC 20226.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Relief of Disabilities.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* None. Any person prohibited from shipping or transporting any explosive in or affecting interstate or foreign commerce or from receiving or possessing any explosive which has been shipped or transported in or affecting interstate or foreign commerce may make application for relief from disabilities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 50 respondents will take 1 minute to support documentation for relief.

(6) *An estimate of the total public burden (in hours) associated with the*

collection: The estimated annual total burden associated with this collection is 1 hour.

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

Dated: September 2, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. E9–21652 Filed 9–8–09; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0077]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Report of Stolen or Lost ATF Form 5400.30, Intrastate Purchase of Explosives Coupon.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until November 9, 2009. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Debra Satkowiak, Chief, Explosives Industry Programs Branch, Room 6E405, 99 New York Avenue, NE., Washington, DC 20226.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Report of Stolen or Lost ATF F 5400.30, Intrastate Purchase Explosives Coupon.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF F 5400.30. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* Individuals or households. When any Intrastate Purchase of Explosives Coupon is stolen, lost or destroyed, the person losing possession will, upon discovery of the theft, loss, or destruction, immediately, but in all cases before 24 hours have elapsed since discovery, report the matter to the Director, Alcohol, Tobacco, Firearms and Explosives.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 800 respondents will complete a 20 minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 264 annual total burden hours associated with this collection.

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

Dated: September 2, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. E9–21651 Filed 9–8–09; 8:45 am]

BILLING CODE 4410–FY–P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 2009–6 CRB CD 2007]

Distribution of the 2007 Cable Royalty Funds

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Notice soliciting comments on motion of Phase I claimants for partial distribution.

SUMMARY: The Copyright Royalty Judges are soliciting comments on a motion of Phase I claimants for partial distribution in connection with the 2007 cable royalty funds.

DATES: Comments are due on or before October 9, 2009.

ADDRESSES: Comments may be sent electronically to *crb@loc.gov.* In the alternative, send an original, five copies, and an electronic copy on a CD either by mail or hand delivery. Please do not use multiple means of transmission. Comments may not be delivered by an overnight delivery service other than the U.S. Postal Service Express Mail. If by mail (including overnight delivery), comments must be addressed to: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024–0977. If hand delivered by a private party, comments must be brought to the Library of Congress, James Madison Memorial Building, LM–401, 101 Independence Avenue, SE., Washington, DC 20559–6000. If delivered by a commercial courier, comments must be delivered to the Congressional Courier Acceptance Site located at 2nd and D Street, NE., Washington, DC. The envelope must be addressed to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM–403, 101 Independence Avenue, SE., Washington, DC 20559–6000.

FOR FURTHER INFORMATION CONTACT: Richard Strasser, Senior Attorney, or Gina Giuffreda, Attorney Advisor, by telephone at (202) 707–7658 or e-mail at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: Each year cable systems must submit royalty payments to the Register of Copyrights as required by the statutory license set forth in section 111 of the Copyright Act

for the retransmission to cable subscribers of over-the-air television and radio broadcast signals. *See* 17 U.S.C. 111(d). These royalties are then distributed to copyright owners whose works were included in a qualifying transmission and who timely filed a claim for royalties. Allocation of the royalties collected occurs in one of two ways. In the first instance, these funds will be distributed through a negotiated settlement among the parties. 17 U.S.C. 111(d)(4)(A). If the claimants do not reach an agreement with respect to the royalties, the Copyright Royalty Judges (''Judges'') must conduct a proceeding to determine the distribution of any royalties that remain in controversy. 17 U.S.C. 111(d)(4)(B).

On August 12, 2009, representatives of the Phase I claimant categories (the ''Phase I Parties'') [1] filed with the Judges a motion requesting a partial distribution of 50% of the 2007 cable royalty funds. Under section 801(b)(3)(C) of the Copyright Act, the Judges must publish a notice in the **Federal Register** seeking responses to the motion for partial distribution to ascertain whether any claimant entitled to receive such fees has a reasonable objection to the requested distribution before ruling on the motion. Consequently, by today's Notice, the Judges seek comments from interested claimants on whether any reasonable objection exists that would preclude the distribution of 50% of the 2007 cable royalty funds to the Phase I Parties.

The Judges also seek comment on the existence and extent of any controversies to the 2007 cable royalty funds at Phase I with respect to the 50% of those funds that would remain if the partial distribution is granted. In Phase I of a cable royalty distribution, royalties are distributed to certain categories of broadcast programming that have been retransmitted by cable systems. The categories have traditionally been movies and syndicated television series, sports programming, commercial and noncommercial broadcaster-owned programming, religious programming, music, public radio programming, and Canadian programming. In Phase II of a cable royalty distribution, royalties are distributed to claimants within each of the Phase I categories.

The Judges must be advised of the existence and extent of all Phase I controversies by the end of the comment period. It will not consider any controversies that come to their attention after the close of that period.

The Motion of the Phase I Claimants for Partial Distribution is posted on the Copyright Royalty Board Web site at *http://www.loc.gov/crb*.

Dated: September 3, 2009.

James Scott Sledge,

Chief U.S. Copyright Royalty Judge.

[FR Doc. E9–21685 Filed 9–8–09; 8:45 am]

BILLING CODE 1410–72–P

[1] The ''Phase I Parties'' are the Program Suppliers, Joint Sports Claimants, Public Television Claimants, the National Association of Broadcasters, the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., SESAC, Inc., Canadian Claimants, National Public Radio, and the Devotional Claimants.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE 09–078]

Notice of Intent To Grant Partially Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant a partially exclusive license.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant a worldwide partially exclusive license to practice the inventions described and claimed in NASA Case Numbers LAR–16571–2 entitled ''Magnetic Field Response Sensor for Conductive Media,'' U.S. Patent Application Number 11/421,886; LAR–16571–3 entitled ''Magnetic Field Response Sensor for Conductive Media,'' U.S. Patent Application Number 12/533,520; LAR–16974–1 entitled ''Flexible Framework for Capacitive Sensing,'' U.S. Patent Number 7,047,807 B2; LAR–17116–1 entitled ''System and Method for Wirelessly Determining Fluid Volume,'' U.S. Patent Number 7,506,541 B2; LAR–17155–1 entitled ''Wireless Fluid Level Measuring System,'' U.S. Patent Number 7,255,004 B2; LAR–17294–1 entitled ''Wireless Sensing System Using Open-Circuit, Electrically-Conductive Spiral-Trace Sensor,'' U.S. Patent Application Number 11/671,089; LAR–17480–1 entitled ''Method of Calibrating a Fluid-Level Measurement System,'' U.S. Patent Application Number 11/930,222; LAR–17480–1–PCT entitled ''Method of Calibrating a Fluid-Level Measurement System,'' PCT Patent Application Number PCT/US08/58332; LAR–17488–1 entitled ''Wireless Sensing System for Non-Invasive Monitoring of Attributes of Contents in a Container,'' U.S. Patent Application Number 12/015,626; and LAR–17488–1–PCT entitled ''Wireless Sensing System for Non-Invasive Monitoring of Attributes of Contents in a Container,'' PCT Patent Application Number PCT/US08/51258 to Kelvin International Corporation having its principal place of business in Newport News, Virginia. The field of use may be limited to cryogenic liquid product applications including flow, level, and fluid measurement applications. The patent rights have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective partially exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective partially exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, Office of Chief Counsel, NASA Langley Research Center, MS 141, Hampton, VA 23681; (757) 864–9260 (phone), (757) 864–9190 (fax).

FOR FURTHER INFORMATION CONTACT: Robin W. Edwards, Patent Attorney, Office of Chief Counsel, NASA Langley Research Center, MS 141, Hampton, VA 23681; (757) 864–3230; Fax: (757) 864–9190. Information about other NASA inventions available for licensing can be found online at *http://techtracs.nasa.gov/*.

Dated: September 2, 2009.

Richard W. Sherman,

Deputy General Counsel.

[FR Doc. E9–21666 Filed 9–8–09; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Information Security Oversight Office

National Industrial Security Program Policy Advisory Committee (NISPPAC)

AGENCY: National Archives and Records Administration, ISOO.

ACTION: Notice of open meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (5 U.S.C. app 2) and implementing regulation 41 CFR 101–6, announcement is made for a committee meeting of the National Industrial Security Program Policy Advisory Committee (NISPPAC).

DATES: October 8, 2009, 10 a.m. to 12 p.m.

ADDRESSES: National Archives and Records Administration, 700 Pennsylvania Avenue, NW., Archivist's Reception Room, Room 105, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: David O. Best, Senior Program Analyst, ISOO, National Archives Building, 700 Pennsylvania Avenue, NW., Washington, DC 20408, telephone number (202) 357–5123, or at *david.best@nara.gov.* Contact ISOO at *ISOO@nara.gov* and the NISPPAC at *NISPPAC@nara.gov.*

SUPPLEMENTARY INFORMATION: To discuss National Industrial Security Program policy matters.

This meeting will be open to the public. However, due to space limitations and access procedures, the name and telephone number of individuals planning to attend must be submitted to the Information Security Oversight Office (ISOO) no later than Thursday October 1, 2009. ISOO will provide additional instructions for gaining access to the location of the meeting.

Dated: September 2, 2009.

Mary Ann Hadyka,

Committee Management Officer.

[FR Doc. E9–21693 Filed 9–8–09; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that six meetings of the Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 as follows (ending times are approximate):

Learning in the Arts (application review): September 30–October 1, 2009 in Room 716. A portion of this meeting, from 4 p.m. to 4:30 p.m. on October 1st, will be open to the public for policy discussion. The remainder of the meeting, from 9 a.m. to 5:30 p.m. on September 30th, and from 9 a.m. to 4 p.m. and 4:30 p.m. to 5:30 p.m. on October 1st, will be closed.

Learning in the Arts (application review): October 7–8, 2009 in Room 716. A portion of this meeting, from 4 p.m. to 4:30 p.m. on October 8th, will be open to the public for policy discussion. The remainder of the meeting, from 9 a.m. to 5:30 p.m. on October 7th, and from 9 a.m. to 4 p.m. and 4:30 p.m. to 5:30 p.m. on October 8th, will be closed.

Learning in the Arts (application review): October 19–23, 2009 in Room 716. A portion of this meeting, from 3:30 p.m. to 4 p.m. on October 22nd, will be open to the public for policy discussion. The remainder of the meeting, from 9 a.m. to 5:30 p.m. on October 19th through October 21st, from 9 a.m. to 3:30 p.m. and 4 p.m. to 5:30 p.m. on October 22nd, and from 9 a.m. to 4:00 p.m. on October 23rd, will be closed.

Media Arts (application review): October 21–22, 2009 in Room 730. This meeting, from 9 a.m. to 5:30 p.m. on October 21st and from 9 a.m. to 4:30 p.m. on October 22nd, will be closed.

Media Arts (application review): October 23, 2009 in Room 730. This meeting, from 9 a.m. to 5:30 p.m., will be closed.

Music (application review): October 26–28, 2009 in Room 714. This meeting, from 9 a.m. to 5:30 p.m. on October 26th, from 9 a.m. to 6 p.m. on October 27th, and from 9 a.m. to 4:45 p.m. on October 28th, will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of February 28, 2008, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: September 3, 2009.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. E9–21668 Filed 9–8–09; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Wednesday, September 30, 2009.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza, SW., Washington, DC 20594.

STATUS: The one item is open to the public.

MATTER TO BE CONSIDERED: 8032A Marine Accident Report—Sinking of U.S. Fish Processing Vessel *Alaska Ranger,* Bering Sea, March 23, 2008.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle Hall at (202) 314–6305 by Friday, September 25, 2009.

The public may view the meeting via a live or archived Webcast by accessing a link under ''News & Events'' on the NTSB home page at *http://www.ntsb.gov.*

FOR FURTHER INFORMATION CONTACT: Vicky D'Onofrio, (202) 314–6410.

Dated: September 4, 2009.

Candi R. Bing,

Alternate Federal Register Liaison Officer.

[FR Doc. E9–21798 Filed 9–4–09; 4:15 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0289; NRC–2009–0292; NRC–2009–0293; NRC–2009–0290; NRC–2009–0291; NRC–2009–0287; NRC–2009–0286; NRC–2009–0285; NRC–2009–0294; NRC–2009–0288; NRC–2009–0284; NRC–2009–0295]

Notice of Withdrawal of an Application for Indirect License Transfer Resulting From the Proposed Merger Between Exelon Corporation and NRG Energy, Inc., and Opportunity for a Hearing

Exelon Generation Company, LLC, Braidwood Station, Units 1 and 2, Docket Nos. 50–456 and 50–457; [NRC–2009–0289], Byron Station, Units 1 and 2, Docket Nos. 50–454 and 50–455; [NRC–2009–0292],

Clinton Power Station, Docket No. 50–461; [NRC–2009–0293], Dresden Nuclear Power Station, Units 1, 2, and 3, Docket Nos. 50–10, 50–237, and 50–249; [NRC–2009–0290], Lasalle County Station, Units 1 and 2, Docket Nos. 50–373 and 50–374; [NRC–2009–0291], Limerick Generating Station, Units 1 and 2, Docket Nos. 50–352 and 50–353; [NRC–2009–0287], Oyster Creek Generating Station, Docket No. 50–219; [NRC–2009–0286], Peach Bottom Atomic Power Station, Units 1, 2, and 3, Docket Nos. 50–171, 50–277, and 50–278; [NRC–2009–0285], Quad Cities Nuclear Power Station, Units 1 and 2, Docket Nos. 50–254 and 50–265; [NRC–2009–0294], Salem Generating Station, Units 1 and 2, Docket Nos. 50–272 and 50–311; [NRC–2009–0288], Three Mile Island Nuclear Station, Unit 1, Docket No. 50–289; [NRC–2009–0284], Zion Nuclear Power Station, Units 1 and 2, Docket Nos. 50–295 and 50–304 [NRC–2009–0295].

The U.S. Nuclear Regulatory Commission (the Commission, NRC) has granted the request of Exelon Corporation (the applicant, Exelon), the parent company to Exelon Generation Company, LLC (hereafter, EGC; the licensee for the subject plants), to withdraw its January 29, 2009, application, as supplemented by letter dated March 18, 2009, for the proposed indirect transfer of the Facility Operating Licenses for the following reactor units:

Braidwood Station, Units 1 and 2, Facility Operating License Nos. NPF–72 and NPF–77;

Byron Station, Units 1 and 2, Facility Operating License Nos. NPF–37 and NPF–66;

Clinton Power Station, Facility Operating License No. NPF–62;

Dresden Nuclear Power Station, Units 1, 2 and 3, Facility Operating License No. DPR–2 and Renewed Facility Operating License Nos. DPR–19 and DPR–25;

LaSalle County Station, Units 1 and 2, Facility Operating License Nos. NPF–11 and NPF–18;

Limerick Generating Station, Units 1 and 2, Facility Operating License Nos. NPF–39 and NPF–85;

Oyster Creek Generating Station, Facility Operating License No. DPR–16;

Peach Bottom Atomic Power Station, Units 1, 2 and 3, Facility Operating License No. DPR–12 and Renewed Facility Operating License Nos. DPR–44 and DPR–56;

Quad Cities Nuclear Power Station, Units 1 and 2, Renewed Facility Operating License Nos. DPR–29 and DPR–30;

Salem Generating Station, Units 1 and 2, Facility Operating License Nos. DPR–70 and DPR–75;

Three Mile Island Nuclear Station, Unit 1, Facility Operating License No. DPR–50; and

Zion Nuclear Power Station, Units 1 and 2, Facility Operating License Nos. DPR–39 and DPR–48.

The application sought the Commission's consent to the indirect transfer to NRG Energy Inc. (NRG), of control of the subject licenses, to the extent held by EGC.

The Commission had previously issued notices of consideration of approval of an application for indirect license transfer for each of the above-referenced facilities as published in the **Federal Register** on July 9, 2009 (74 FR 32975, 74 FR 32962, 74 FR 32976, 74 FR 32981, 74 FR 32978, 74 FR 32965, 74 FR 32971, 74 FR 32973, 74 FR 32968, 74 FR 32963, 74 FR 32979, and 74 FR 32970). However, by letter dated July 30, 2009, the applicant withdrew the request for approval.

For further details with respect to this action, see the application dated January 29, 2009, as supplemented by letter dated March 18, 2009, and the applicant's letter dated July 30, 2009, which withdrew the request for NRC approval of the indirect license transfer. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr.resource@nrc.gov*.

Dated at Rockville, Maryland, this 31st day of August 2009.

For the Nuclear Regulatory Commission.

Christopher Gratton,

Senior Project Manager, Plant Licensing Branch III–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E9–21697 Filed 9–8–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATES: Weeks of September 7, 14, 21, 28, October 5, 12, 2009.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of September 7, 2009

There are no meetings scheduled for the week of September 7, 2009.

Week of September 14, 2009—Tentative

There are no meetings scheduled for the week of September 14, 2009.

Week of September 21, 2009—Tentative

Tuesday, September 22, 2009

9:25 a.m. Affirmation Session (Public Meeting) (Tentative). Final Rule Establishing Criminal Penalties for the Unauthorized Introduction of Weapons into Facilities Designated by the Nuclear Regulatory Commission. (Tentative).

This meeting will be Web cast live at the Web address—*http://www.nrc.gov.*

9:30 a.m. Periodic Briefing on New Reactor Issues—Progress in Resolving Inspections, Tests, Analysis, and Acceptance Criteria (ITAAC) Closure (Public Meeting). (*Contact:* Debby Johnson, 301–415–1415.)

This meeting will be Web cast live at the Web address—*http://www.nrc.gov.*

Week of September 28, 2009—Tentative

Wednesday, September 30, 2009

9:30 a.m. Discussion of Management Issues (Closed—Ex. 2).

Week of October 5, 2009—Tentative

There are no meetings scheduled for the week of October 5, 2009.

Week of October 12, 2009—Tentative

There are no meetings scheduled for the week of October 12, 2009.

* * * * *

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Rochelle Bavol, (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/about-nrc/policy-making/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify the NRC's Disability Program Coordinator, Rohn Brown, at 301–492–2279, TDD: 301–415–2100, or by e-mail at *rohn.brown@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like

to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an e-mail to *darlene.wright@nrc.gov.*

Dated: September 3, 2009.

Rochelle C. Bavol,

Office of the Secretary.

[FR Doc. E9–21835 Filed 9–4–09; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0106]

Withdrawal of Proposed Regulatory Issue Summary; Implementation of New Final Rule, Protection of Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Withdrawal of Proposed Regulatory Issue Summary (RIS) ''Implementation of New Final Rule, Protection of Safeguards Information.''

FOR FURTHER INFORMATION CONTACT: Robert Norman at 301–415–2278 or by e-mail at *Robert.Norman@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is withdrawing draft Regulatory Issue Summary (RIS) ''Implementation of New Final Rule, Protection of Safeguards Information'' published March 12, 2009 (74 FR 10786). This draft RIS provided stakeholders information concerning the changes to Title 10 of the *Code of Federal Regulations* (10 CFR) Parts 73.21, 73.22 and 73.23. This draft RIS provided clarifying information of the impact of the new rule (effective date February 23, 2009). The NRC will not pursue finalizing the draft RIS because the NRC has issued Draft Regulatory Guide (DG–5034) in the **Federal Register** for public comment (74 FR 39343, 39354) to assist licensees in meeting the requirements of 10 CFR 73.21, 73.22, and 73.23. Therefore, the RIS is no longer needed.

II. Further Information

Regulatory guides are the preferred method to disseminate guidance information and are available for inspection or downloading through the NRC's public Web site under ''Regulatory Guides'' in the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doccollections*. Regulatory guides are also available for inspection at the NRC's Public Document Room (PDR), Room O–1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738. The PDR's mailing address is US NRC PDR, Washington, DC 20555–0001. The PDR staff can be reached by telephone at 301–415–4737 or 800–397–4209, by fax at 301–415–3548, and by e-mail to *pdr.resource@nrc.gov.*

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

Dated at Rockville, Maryland, this 1st day of September 2009.

For the Nuclear Regulatory Commission.

Martin C. Murphy,

Chief, Generic Communications Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. E9–21694 Filed 9–8–09; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60608; File No. SR–NYSE–2009–85]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC Adding Language to Several NYSE Rules To Clarify That Transactions That Occur Solely Within NYSE MatchPoint℠ Will Be Treated Differently Than Executions That Occur in the NYSE Display Book® for Certain Order Processing Purposes

September 1, 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 August 18, 2009, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add language to several NYSE rules to clarify that transactions that occur solely within NYSE MatchPoint℠ (''MatchPoint'' or the ''facility'') will be treated differently than executions that occur in the NYSE Display Book® (''NYSE Display Book'' or ''DBK'')for certain order processing purposes. The Exchange is seeking to amend NYSE Rules 13, 15, 79A, 100, 104, 116, 123B, 123C, 123D, 124 and 1000. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule filing is to add language to several NYSE rules to clarify that transactions that occur solely within the MatchPoint facility will be treated differently than executions that occur in the DBK for certain order processing purposes. The proposed additional text will not change the core purpose of the subject rules or the functionality of MatchPoint or other NYSE trading systems and facilities. Specifically, the Exchange is seeking to amend NYSE Rules 13, 15, 79A, 100, 104, 116, 123B, 123C, 123D, 124 and 1000.

The Exchange launched MatchPoint in January 2008 following approval of its rule filing by the Securities and Exchange Commission (the ''SEC'' or the ''Commission''). MatchPoint is an anonymous point-in-time electronic trading facility of the NYSE that matches aggregated orders at predetermined sessions throughout regular hours and after hours of the Exchange. MatchPoint trades securities listed on all major and regional U.S. stock exchanges.

MatchPoint is a ''stand alone'' facility of the Exchange in that orders entered into MatchPoint do not interact with any other Exchange facilities or other automated trading centers. Rather, it matches aggregated buy and sell orders within the facility during predetermined

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

one-minute matching sessions during regular hours of the Exchange (at 9:45 a.m., 10 a.m., 11 a.m., 12 noon, 1 p.m., 2 p.m., and 3 p.m.) as well as an after hours match (at 4:45 p.m.) at a Reference Price determined pursuant to NYSE Rule 1500.

The MatchPoint system reports trade execution information to the applicable Securities Information Processors (''SIPs'') for each MatchPoint eligible security. Trades are reported as one print for each security irrespective of the number of individual buyers and sellers with the total volume of the transaction reported with the price. Trades that occur in MatchPoint are distinguished from other Tape A prints by a print modifier that is appended to the trades reported.

Trades that occur on MatchPoint have always been designated with a print modifier of ''N.X.'' Since January 2009, this same print modifier has also been used to designate trades that occur solely within the New York Block Exchange facility (''NYBX'') (see Rule 1600). However, all trades that occur in the DBK are identified with an ''N'' print modifier, including NYBX orders that match with DBK liquidity.

NYBX is an anonymous electronic facility of the Exchange that is not connected to MatchPoint. As more fully described in Rule 1600 and related rule filings [4] NYBX provides for the continuous matching and execution of orders in the NYBX facility (all of which are non-displayed) with the aggregate of all displayed and non-displayed orders in the NYSE DBK (subject to routing to away markets in compliance with Regulation NMS). Therefore, NYBX orders can execute with marketable non-displayed contra side liquidity in the NYBX facility, with marketable contra side liquidity (displayed and/or non-displayed) in the DBK and with any available marketable contra side liquidity in the Capital Commitment Schedule (''CCS'') of the Designated Market Makers (''DMMs'') (see Rule 1000(d)).

Executions that occur within the NYBX facility (*i.e.,* that execute solely with orders within NYBX) or on MatchPoint are treated differently than executions that occur in the DBK (including executions resulting from NYBX orders matching with DBK liquidity and CCS interest) for certain order processing purposes. Specifically, Exchange systems do not include either MatchPoint or NYBX-only executions when calculating the triggers applicable to the following DBK executions and/or requirements: (1) Pre-opening indications; (2) last sale trades; (3) odd lot trades; (4) Designated Market Maker (''DMMs'') obligations to re-enter the market; and (5) stop orders. These triggers are referenced in the following NYSE Rules: 13, 15, 79A, 100, 104, 116, 123B, 123C, 123D, 124 and 1000.

Applicable NYSE rules were previously amended to clarify that NYBX-only executions are not included in the above described calculations.[5] The Exchange is seeking to amend many of the same NYSE Rules in this filing in order to provide appropriate consistency and clarity to the related NYSE Rules. Therefore, with this rule filing, the Exchange proposes to amend the following NYSE Rules: 13, 15, 79A, 100, 104, 116, 123B, 123C, 123D, 124 and 1000. The proposed amendments will clarify that MatchPoint executions are also excluded from the aforementioned calculations. Therefore, the Exchange seeks to amend the following rules:

(1) Rule 13 (Definitions) ''Sell ''Plus''—Buy ''Minus'' Order'' and ''Stop Order''

The Exchange is proposing to amend these definitions to indicate that a transaction that occurs in NYSE MatchPoint shall not be considered in the operation of these orders.

(2) Rule 15. ''Pre-Opening Indications''

The Exchange is proposing to add to section (d) of the rule that an execution that occurs in NYSE MatchPoint shall not be considered in the operation of this rule.

(3) Rule 79A. ''Miscellaneous Requirements on Stock Market Procedures''

The Exchange is proposing to add to subsection (C)(7) of .15 of the Supplementary Material section of the Miscellaneous Requirements on Stock Market Procedures section of the rule that the term ''last sale'' shall not include any transaction that occurs in NYSE MatchPoint. Additionally, the Exchange is proposing to add to section .20(c) of the Supplementary Material that a transaction that occurs in NYSE MatchPoint shall not be considered the ''last sale,'' the ''current sale,'' or the ''last previous sale.''

(4) Rule 100. ''Round-Lot Transactions of Odd-Lot Dealer or Broker Affecting Odd-Lot Orders''

The Exchange is proposing to add to subsection (d) that the ''last different round lot price'' shall not include prices of transactions that occur in NYSE MatchPoint.

(5) Rule 104. ''Dealings and Responsibilities of DMMs''

The Exchange is proposing to add to the Supplementary Material section of Rule 104, under section .10 that the terms ''price,'' ''high price,'' ''low price'' and ''last differently-priced trade'' shall not include the price of any transaction that occurs in NYSE MatchPoint.

(6) Rule 116. '' 'Stop' Constitutes Guarantee''

The Exchange is proposing to add to the Supplementary Material section of Rule 116, under subsection .40 (''Stopping'' stock on market-at-the-close orders'') subparagraph (C) that for purposes of this section .40, the ''price of the last sale'' shall not include any transaction that occurs in NYSE MatchPoint.

(7) Rule 123B. ''Exchange Automated Order Routing System''

The Exchange is proposing to add to Rule 123B in subsection (b)(3)(''Booth Support System'') that for purposes of this section (3), the term ''last sale'' shall not include any transaction that occurs in NYSE MatchPoint.

(8) Rule 123C. ''Market On The Close Policy And Expiration Procedures''

The Exchange is proposing to add to Supplementary Material .10 that for purposes of Rule 123C, the terms ''last sale'' and ''last sales'' shall not include any transaction that occurs in NYSE MatchPoint.

(9) Rule 123D. ''Openings and Halts in Trading''

The Exchange is proposing to add to Rule 123D in the Supplementary Material Section .25 that for purposes of this rule, a transaction that occurs in NYSE MatchPoint shall not affect the calculation of the ''last sale,'' ''prior close,'' ''previous close'' or any similar term.

(10) Rule 124. ''Odd-Lot Orders''

The Exchange is proposing to add to Rule 124.70 in the Supplementary Material section that references to ''round-lot transaction,'' ''round-lot Exchange transaction,'' ''opening transaction,'' ''closing transaction,'' ''reopening price,'' ''re-opening transaction,'' ''price'' and ''sale'' shall not include any transaction that occurs in NYSE MatchPoint.

(11) Rule 1000. ''Automatic Execution of Limit Orders Against Order Reflected in NYSE Published Quotation''

The Exchange is proposing to add to Rule 1000.11 in the Supplementary Material section that with respect to ''sale,'' ''sale price,'' ''last sale price,'' ''closing price'' and similar terms shall

[4] *See* Securities Exchange Act Release No. 59282 (January 22, 2009) 74 FR 5009 (January 28, 2009) (SR–NYSE–2008–119) (Rule 1600. NewYork Block Exchange). *See also* SR–NYSE–2009–82, which was filed with the Commission on August 12, 2009.

[5] *See* Securities Exchange Act Release No. 59282 (January 22, 2009) 74 FR 5009 (January 28, 2009) (SR–NYSE–2008–119).

not include any transaction that occurs in NYSE MatchPoint.

In each of the rule changes described above, the Exchange also proposes to add a reference to Rule 1500 (''NYSE MatchPoint℠'').

Market data for NYSE-listed securities that trade on MatchPoint is disseminated via the consolidated tape pursuant to the Consolidated Tape Association Plan (''CTA Plan''). Trade reports of securities that are governed by the Unlisted Trade Privileges Plan (''UTP Plan'') are disseminated pursuant to the UTP Plan. Because MatchPoint and NYBX are facilities of the Exchange, and not withstanding the exclusions described above, all trades executed in either MatchPoint or NYBX indicate the market of execution as the NYSE for CTA and UTP purposes.

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 the proposed rule changes support these principles in that they will clarify that certain NYSE rules do not apply to executions that occur on MatchPoint.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7]

The Exchange has requested that the Commission waive the 30-day operative delay and designate the proposed rule change immediately operative. The Exchange believes that waiving the operative delay, by immediately clarifying how trades executed in NYSE MatchPoint will be treated for purposes of the application of certain other Exchange rules, will eliminate potential confusion by granting market participants a better understanding of the effect that MatchPoint trades have on the market. The Commission believes such waiver is consistent with the protection of investors and the public interest.[8] Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2009–85 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–2009–85. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2009–85 and should be submitted on or before September 30, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–21645 Filed 9–8–09; 8:45 am]

BILLING CODE 8010–01–P

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[8] For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60612; File No. SR–NYSE–2009–88]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC to Modify the Cure Provisions Under Its Dollar Stock Price Continued Listing Standard

September 2, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Exchange Act'')[2] and Rule 19b–4

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

thereunder,[3] notice is hereby given that, on August 21, 2009, New York Stock Exchange LLC (the ''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission the proposed rule changes as described in Items I and II below, which items have been prepared by the Exchange. The Exchange has designated this proposal eligible for immediate effectiveness pursuant to Rule 19b–4(f)(6)[4] under the Act. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the cure provisions under the dollar stock price continued listing standard set forth in Section 802.01C of the Exchange's Listed Company Manual (the ''Manual'').

The text of the proposed rule change is available on the Exchange's Web site (*http://www.nyse.com*), at the Exchange's Office of the Secretary and at the Commission's Public Reference room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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 NYSE has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under Section 802.01C of the Manual, a listed company is below compliance with the Exchange's stock price continued listing standard if the average closing price of its stock has fallen below $1.00 over a consecutive 30 trading day period) (the NYSE's ''dollar price continued listing standard''). Once notified, the company must bring its share price and average share price back above $1.00 by six months following receipt of the notification. A company is not eligible to follow the cure procedures outlined in Sections 802.02 and 802.03 with respect to the dollar stock price continued listing standard. The company must, however, notify the Exchange, within 10 business days of receipt of the notification, of its intent to cure this deficiency or be subject to suspension and delisting procedures. In order to cure an event of noncompliance under the dollar price continued listing standard, an issuer must have a $1.00 closing share price on the last trading day of its six-month cure period and a $1.00 average closing share price over the 30 trading-day period ending on the last trading day in the six-month cure period. If the issuer fails to regain compliance in this manner, the Exchange will commence suspension and delisting procedures promptly after the expiration of the cure period.[5]

Due to the extreme volatility in the equity markets in the earlier part of 2009, the Exchange suspended the application of the dollar price continued listing standard until June 30, 2009.[6] The suspension of the dollar price continued listing standard was subsequently extended to July 31, 2009.[7] Under the suspension, any company that was in a compliance period at the time of commencement of the rule suspension could return to compliance if such company had a $1.00 closing share price on the last trading day of any calendar month during the suspension and a $1.00 average closing share price based on the 30 trading days preceding the end of such month. The Exchange now proposes to amend Section 802.01C to provide that this provision will become a permanent aspect of the rule after the expiration of the suspension period on July 31, 2009. Going forward, a company that has been notified by the Exchange that it is below compliance with the dollar price continued listing standard can regain compliance prior to the end of its six-month cure period if on the last trading day of any calendar month during that period the company has a closing share price of at least $1.00 and has an average closing share price of at least $1.00 over the 30 trading day period ending on the last trading day of that month. It has been the Exchange's experience that most companies that have utilized this early cure provision during the period of the suspension have subsequently remained in compliance with the dollar stock price continued listing standard. Consequently, the Exchange no longer believes that there is any regulatory benefit to be derived from limiting companies to curing an event of noncompliance with the dollar price continued listing standard only at the very end of the six-month cure period. The Exchange believes that allowing companies to cure on the last trading day of any month during the cure period will not contribute to the retention of companies that are unsuitable for continued listing. The Exchange also believes that Nasdaq takes a similar approach to the proposed amendment in the cure provisions of its dollar price continued listing standard[8] and, consequently, the Exchange does not believe that the proposed amendment raises any novel regulatory issues. The NYSE retains the right to delist a company at any time if it determines that doing so is in the public interest.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[9] of the Act in general, and furthers the objectives of Section 6(b)(5)[10] of the Act in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change is similar to an existing rule of Nasdaq and consequently does not raise any novel regulatory issues. Furthermore, companies that will qualify to cure their dollar price continued listing standard noncompliance under the proposed amendment will have maintained an

[3] 17 CFR 240.19b–4.

[4] 17 CFR 240.19b–4(f)(6).

[5] Additionally, Section 802.01C provides that if a company determines that, if necessary, it will cure the price condition by taking an action that will require approval of its shareholders, it must so inform the Exchange in the above referenced notification, must obtain the shareholder approval by no later than its next annual meeting, and must implement the action promptly thereafter. The price condition will be deemed cured if the price promptly exceeds $1.00 per share, and the price remains above the level for at least the following 30 trading days.

[6] *See* Securities Exchange Act Release No. 59510 (March 4, 2009), 74 FR 10636 (March 11, 2009)(SR–NYSE–2009–21).

[7] *See* Securities Exchange Act Release No. 60273 (July 9, 2009), 74 FR 34606 (July 16, 2009) (SR–NYSE–2009–64. [sic]

[8] *See* Nasdaq Marketplace Rule 5810(a)(3)(A), under which a company which is below compliance with Nasdaq's $1.00 price requirement can regain compliance at any time during the 180-day compliance period by meeting the standard for any 10 consecutive trading days during the compliance period.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

average closing price of at least $1.00 for 30 consecutive trading days, which evidences those companies' suitability for continued listing.

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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [13] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6) [14] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay because the Exchange believes that: (i) Doing so will avoid potential confusion and inconsistent treatment of companies that could arise if the Exchange was unable to apply this provision on August 31, after having applied such a provision during the temporary suspension period, and then doing so again on September 30 after the filing becomes operative, (ii) such a waiver will allow the Exchange to implement a standard substantially similar to that in place at Nasdaq, and (iii) the Commission has previously published for public comment the temporary suspension of the dollar price continued listing standard (which included the same early cure provision as proposed in this filing) and received no comments.

The Commission believes that waiving the 30-day operative delay [15] is consistent with the protection of investors and the public interest. As noted by the NYSE, the proposal was previously published for comment and implemented during the temporary suspension of the dollar price continued listing standard.[16] The Commission received no comments on this change. In addition, the proposal will avoid confusion as to the applicable compliance period and is not inconsistent with how NASDAQ applies its compliance period. For these reasons, the Commission believes it is appropriate to waive the 30-day operative delay, allowing the proposed rule change to become operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2009–88 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–2009–88. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NYSE–2009–88 and should be submitted on or before September 30, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–21646 Filed 9–8–09; 8:45 am]

BILLING CODE 8010–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the five-day pre-filing requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6).

[15] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] *See supra* notes 6–7.

[17] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 6741]

Shipping Coordinating Committee; Notice of Subcommittee Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 11 a.m. on Wednesday, September 23, 2009, in Room 1422 of the United States Coast Guard Headquarters Building, 2100 Second Street, SW., Washington, DC 20593–0001. The primary purpose of the meeting is to prepare for the ninety-sixth Session of the International Maritime Organization (IMO) Legal Committee (LEG) to be held be held at the IMO Headquarters, United Kingdom, from October 5 to October 9, 2009.

The primary matters to be considered include:

—Adoption of the agenda

—Decisions of other IMO bodies
—Consideration and adoption of amendments to mandatory instruments
—Measures to enhance maritime security
—Goal-based new ship construction standards
—LRIT-related matters
—Technical assistance sub-programme in maritime safety and security
—Capacity-building for the implementation of new measures
—Role of the human element
—Formal safety assessment
—Piracy and armed robbery against ships
—General cargo ship safety
—Reports of six subcommittees—Ship design and equipment, Training and Watchkeeping, Radiocommunications and Search and Rescue, Flag State Implementation, Safety of Navigation, Stability, Load Lines and Fishing Vessel Safety, Dangerous Goods, Solid Cargoes and Containers
—Relations with other organizations
—Election of Chairman and Vice-Chairman for 2009

Members of the public may attend this meeting up to the seating capacity of the room. To facilitate the building security process, those who plan to attend should contact the meeting coordinator, Bronwyn G. Douglass, by e-mail at *bronwyn.douglass@uscg.mil,* by phone at (202) 372–3792, by fax at (202) 372–3972, or in writing at Commandant (CG–0941), U.S. Coast Guard, 2100 2nd Street, SW., STOP 7121, Washington, DC 20593–7121 not later than 72 hours before the meeting. Please note that due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to the Headquarters building. The Headquarters building is accessible by taxi and privately owned conveyance (public transportation is not generally available). However, parking in the vicinity of the building is extremely limited. A member of the public needing reasonable accommodation should make his or her request by September 16th. Requests submitted after that date will be considered, but might not be able to be fulfilled. Additional information regarding this and other IMO SHC public meetings may be found at: *http://www.uscg.mil/hq/cg5/imo.*

Dated: September 2, 2009.

J. Trent Warner,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. E9–21691 Filed 9–8–09; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice 6739]

Notice of Public Meeting

SUMMARY: The U.S. Department of State, Bureau of Oceans and International Environmental and Scientific Affairs (OES), Office of Marine Conservation announces that the Advisory Panel to the U.S. Section of the North Pacific Anadromous Fish Commission will meet on September 23, 2009.

DATES: The meeting will take place via teleconference on September 23, 2009 from 1 p.m. to 3 p.m. Eastern time.

Meeting Details: The teleconference call-in number is toll-free 1–888–456–0348, passcode 20935, and will have a limited number of lines for members of the public to access from anywhere in the United States. Callers will hear instructions for using the passcode and joining the call after dialing the toll-free number noted. Members of the public wishing to participate in the teleconference must contact the OES officer in charge as noted in the **FOR FURTHER INFORMATION CONTACT** section below no later than close of business on Monday, September 21, 2009.

FOR FURTHER INFORMATION CONTACT: John Field, Office of Marine Conservation, OES, Room 2758, U.S. Department of State, 2201 C Street, NW., Washington, DC 20520. Telephone (202) 647–3263, fax (202) 736–7350, e-mail *fieldjd@state.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, notice is given that the Advisory Panel to the U.S. Section of the North Pacific Anadromous Fish Commission (NPAFC) will meet on the date and time noted above. The panel consists of members from the states of Alaska and Washington who represent the broad range fishing and conservation interests in anadromous and ecologically related species in the North Pacific. Certain members also represent relevant state and regional authorities. The panel was established in 1992 to advise the U.S. Section of the NPAFC on research needs and priorities for anadromous species, such as salmon, and ecologically related species occurring in the high seas of the North Pacific Ocean. The upcoming Panel meeting will focus on three major topics: (1) Review of the agenda for the 2009 annual meeting of the NPAFC (November 2–6, 2009; Niigata, Japan); (2) logistics for the U.S. Section at the NPAFC meeting; and (3) the future status of the Panel. Background material is available from the point of contact noted above and by visiting *http://www.npafc.org.*

Dated: September 1, 2009.

William Gibbons-Fly,

Director, Office of Marine Conservation, Department of State.

[FR Doc. E9–21702 Filed 9–8–09; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35252]

Regional Transportation District—Acquisition Exemption—Union Pacific Railroad Company in Adams, Boulder, Broomfield, and Weld, CO

Regional Transportation District (RTD),[1] a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Union Pacific Railroad Company (UP) approximately 32.97 miles of rail line, known as the Boulder Industrial Lead, extending from milepost 0.2 (north of Denver) to approximately milepost 33.17, including the Lakeside Spur (Boulder County), in the Counties of Adams, Boulder, Broomfield, and Weld, CO. According to RTD, UP will retain an exclusive freight easement for the trackage on the Boulder Industrial Lead, and UP will retain the exclusive right to operate freight service on the entire line.

RTD states that the transaction was agreed upon on June 25, 2009. The earliest this transaction may be consummated is September 23, 2009, the effective date of the exemption (30 days after the exemption is filed). According to RTD, it will acquire no right or obligation to provide freight rail service on the Boulder Industrial Lead, and it is acquiring the property for the purpose of providing intrastate passenger commuter rail operations. RTD certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier.

If the notice contains false or misleading information, the exemption is void *ab initio.*[2] Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction. Petitions for stay must be filed no later than September 16, 2009 (at least 7 days

[1] RTD is a political subdivision of the State of Colorado.

[2] A motion to dismiss has been filed in this proceeding. The motion will be addressed in a subsequent Board decision.

before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35252, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Charles A. Spitulnik, 1001 Connecticut Avenue, NW., Suite 800, Washington, DC 20036.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: September 3, 2009.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9–21682 Filed 9–8–09; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 670 (Sub-No. 3)]

Renewal of Rail Energy Transportation Advisory Committee

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of intent to renew charter.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended 5 U.S.C., App. (FACA), notice is hereby given that the Surface Transportation Board (Board) intends to renew the charter of the Rail Energy Transportation Advisory Committee (RETAC).

ADDRESSES: A copy of the charter is available at the Library of the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001, and on the Board's Web site at *http://www.stb.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Scott Zimmerman, Designated Federal Official, at (202) 245–0202. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: (800) 877–8339.

SUPPLEMENTARY INFORMATION: RETAC was established by the Board on September 24, 2007, to provide advice and guidance to the Board, on a continuing basis, and to provide a forum for the discussion of emerging issues and concerns regarding the transportation by rail of energy resources, particularly but not necessarily limited to coal, ethanol and other biofuels. RETAC functions solely as an advisory body, and will comply with the provisions of FACA, and its implementing regulations.

RETAC consists of approximately 25 voting members, excluding the governmental representatives. The membership comprises a balanced representation of individuals experienced in issues affecting the transportation of energy resources, including not less than: 5 representatives from the Class I railroads; 3 representatives from Class II and III railroads; 3 representatives from coal producers; 5 representatives from electric utilities (including at least one rural electric cooperative and one state- or municipally-owned utility); 4 representatives from biofuel feedstock growers or providers, and biofuel refiners, processors and distributors; and 2 representatives from private car owners, car lessors, or car manufacturers. These members are serving in a representative capacity for this Committee. The Committee may also include up to 3 members with relevant experience but not necessarily affiliated with one of the aforementioned industries or sectors. STB Board Members are ex officio (non-voting) members of RETAC.

RETAC meets approximately four times a year, and meetings are open to the public, consistent with the Government in the Sunshine Act, Public Law 94–409.

Further information about the RETAC is available on the Board's Web site at *http://www.stb.dot.gov* and at the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.*

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Dated: September 3, 2009.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9–21660 Filed 9–8–09; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TREASURY

Office of the General Counsel; Appointment of Members of the Legal Division to the Performance Review Board, Internal Revenue Service

Under the authority granted to me as Chief Counsel of the Internal Revenue Service by the General Counsel of the Department of the Treasury by General Counsel Order No. 21 (Rev. 4), pursuant to the Civil Service Reform Act, I have appointed the following persons to the Legal Division Performance Review Board, Internal Revenue Service Panel:

1. Chairperson, Bernard J. Knight, Acting General Counsel (Department of Treasury).

2. Paul D. DeNard, IRS, Deputy Commissioner (Operations) (Large and Mid Size Business).

3. Faris R. Fink, IRS, Deputy Commissioner (Small Business/Self Employed).

This publication is required by 5 U.S.C. 4314(c)(4).

Dated: August 8, 2009.

William J. Wilkins,

Chief Counsel, Internal Revenue Service.

[FR Doc. E9–21726 Filed 9–8–09; 8:45 am]

BILLING CODE 4830–01–P

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of final priorities.

SUMMARY: In June 2009, the Commission published a notice of possible policy priorities for the amendment cycle ending May 1, 2010. *See* 74 FR 29737 (June 23, 2009). After reviewing public comment received pursuant to the notice of proposed priorities, the Commission has identified its policy priorities for the upcoming amendment cycle and hereby gives notice of these policy priorities.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer, Telephone: (202) 502–4590.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for Federal sentencing courts pursuant to 28 U.S.C. 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. 994(o) and submits guideline amendments to the Congress not later than the first day of May each year pursuant to 28 U.S.C. 994(p).

As part of its statutory authority and responsibility to analyze sentencing issues, including operation of the Federal sentencing guidelines, the Commission has identified its policy priorities for the amendment cycle ending May 1, 2010. The Commission recognizes, however, that other factors, such as the enactment of any legislation requiring Commission action, may affect the Commission's ability to complete

work on any or all of its identified priorities by the statutory deadline of May 1, 2010. Accordingly, it may be necessary to continue work on any or all of these issues beyond the amendment cycle ending on May 1, 2010.

As so prefaced, the Commission has identified the following priorities:

(1) Continuation of its efforts, in light of recent Supreme Court jurisprudence and pursuant to the Commission's ongoing authority and responsibility under 28 U.S.C. 995(a)(21), to solicit information regarding Federal sentencing practices, including through ongoing regional public hearings. The Commission has held regional public hearings in Atlanta, GA (February 10–11, 2009), Palo Alto, CA (May 27–28, 2009), and New York, NY (July 9–10, 2009), and intends to hold additional regional public hearings in Chicago, IL (September 9–10, 2009), Denver, CO (October 20–21, 2009), Austin, TX (November 19–20, 2009), and Phoenix, AZ (January 20–21, 2010). The Commission is soliciting information at these regional public hearings on topics that include the manner in which *United States* v. *Booker* and subsequent Supreme Court decisions have affected Federal sentencing practices and appellate review of those practices, the role of the Federal sentencing guidelines, and recommendations, if any, for appropriate revisions to Federal sentencing policy. The Commission anticipates that it will compile and publish the information and testimony received at these regional public hearings and issue a report with respect to its findings.

(2) Continuation of its work on Federal sentencing policy with the congressional, executive, and judicial branches of the government, and other interested parties, in light of *United States* v. *Booker* and subsequent Supreme Court decisions, possibly including (A) an evaluation of the impact of those decisions on the Federal sentencing guideline system; (B) development of amendments to the Federal sentencing guidelines; (C) development of recommendations for legislation regarding Federal sentencing policy; (D) a study of, and possible report to Congress on, statutory mandatory minimum penalties, including a review of the operation of the ''safety valve'' provision at 18 U.S.C. 3553(e); and (E) a study and report on the appellate standard of review applicable to post-*Booker* Federal sentencing decisions.

(3) A review of departures within the guidelines, including (A) a review of the extent to which pertinent statutory provisions prohibit, discourage, or encourage certain factors as forming the basis for departure from the guideline sentence; and (B) possible revisions to the departure provisions in the *Guidelines Manual,* including in Chapter Two and in Parts H and K of Chapter Five, in light of that review and any other information coming to the Commission's attention, as well as potential technical and conforming amendments to the *Guidelines Manual* to facilitate ease of use.

(4) Continued study of, and a possible report on, alternatives to incarceration, including (A) a study of sentencing alternatives that may be appropriate at the time of the original sentencing; and (B) consideration of any potential changes to the zones incorporated in the Sentencing Table in Chapter Five and/or other changes to the guidelines that might be appropriate in light of the information obtained from that study.

(5) Continuation of its work with Congress and other interested parties on cocaine sentencing policy to implement the recommendations set forth in the Commission's 2002 and 2007 reports to Congress, both entitled *Cocaine and Federal Sentencing Policy,* and to develop appropriate guideline amendments in response to any related legislation.

(6) Continuation of its multi-year study of the statutory and guideline definitions of *crime of violence*, *aggravated felony*, *violent felony*, and *drug trafficking crime*, including an examination of relevant circuit conflicts regarding whether any offense is categorically a *crime of violence*, *aggravated felony*, *violent felony*, or *drug trafficking crime* for purposes of triggering an enhanced sentence under certain Federal statutes and guidelines. This study may culminate in guideline amendments and/or a report to Congress recommending statutory changes.

(7) Resolution of circuit conflicts, pursuant to the Commission's continuing authority and responsibility, under 28 U.S.C. 991(b)(1)(B) and *Braxton* v. *United States,* 500 U.S. 344 (1991), to resolve conflicting interpretations of the guidelines by the Federal courts.

(8) Multi-year review of the guidelines and their application to human rights offenses, including genocide under 18 U.S.C. 1091, war crimes under 18 U.S.C. 2441, torture and maiming to commit torture under 18 U.S.C. 2340A and 114, respectively, and child soldier offenses under 18 U.S.C. 2442, and possible promulgation of guidelines or guideline amendments with respect to these offenses.

(9) Review of child pornography offenses, and possible promulgation of guideline amendments and/or a report to Congress as a result of such review. It is anticipated that any such report would include (A) a review of the incidence of, and reasons for, departures and variances from the guideline sentence; (B) a compilation of studies on, and analysis of, recidivism by child pornography offenders; and (C) recommendations to Congress on any statutory changes that may be appropriate.

(10) Consideration of miscellaneous guideline application issues including (A) clarification of the extent to which restitution is mandatory or discretionary in various circumstances; (B) examination of, and possible guideline amendments relating to, the computation of criminal history points under § 4A1.1(e); and (C) other miscellaneous issues coming to the Commission's attention from case law and other sources.

(11) Implementation of crime legislation enacted during the 111th Congress warranting a Commission response.

Authority: 28 U.S.C. 994(a), (o); USSC Rules of Practice and Procedure 5.2.

Ricardo H. Hinojosa,

Acting Chair.

[FR Doc. E9–21720 Filed 9–8–09; 8:45 am]

BILLING CODE 2211–01–P

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of final action regarding technical and conforming amendments to Federal sentencing guidelines effective November 1, 2009.

SUMMARY: On May 1, 2009, the Commission submitted to Congress amendments to the Federal sentencing guidelines and published these amendments in the **Federal Register** on May 8, 2009. *See* 74 FR 21750. The Commission has made technical and conforming amendments, set forth in this notice, to commentary provisions related to those amendments.

DATES: The Commission has specified an effective date of November 1, 2009, for the amendments set forth in this notice.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer, Telephone: (202) 502–4590.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission, an independent commission in the judicial branch of the United States government, is authorized by 28 U.S.C. 994(a) to promulgate sentencing guidelines and policy statements for Federal courts. Section 994 also directs the Commission to review and revise periodically promulgated guidelines and authorizes it to submit guideline amendments to Congress not later than the first day of May each year. *See* 28 U.S.C. 994(o), (p). Absent an affirmative disapproval by Congress within 180 days after the Commission submits its amendments, the amendments become effective on the date specified by the Commission (typically November 1 of the same calendar year). *See* 28 U.S.C. 994(p).

Unlike amendments made to sentencing guidelines, amendments to commentary may be made at any time and are not subject to congressional review. To the extent practicable, the Commission endeavors to include amendments to commentary in any submission of guideline amendments to Congress. Occasionally, however, the Commission determines that technical and conforming changes to commentary are necessary. This notice sets forth technical and conforming amendments to commentary that will become effective on November 1, 2009.

Authority: USSC Rules of Practice and Procedure 4.1.

Ricardo H. Hinojosa,

Acting Chair, Technical and Conforming Amendments.

1. *Amendment:* The Commentary to § 2A6.2 captioned ''Application Notes'' is amended in Note 4 in the second paragraph by striking ''2'' after ''Note'' and inserting ''3''.

The Commentary to § 2B1.1 captioned ''Application Notes'', as amended by Amendment 1 submitted to Congress on May 1, 2009 (74 FR 21750), is further amended in Note 1, in the paragraph that begins ''Personal information' means'', by striking ''(i)'' and inserting ''(A)''; by striking ''(ii)'' and inserting ''(B)''; by striking ''(iii)'' and inserting ''(C)''; by striking ''(iv)'' and inserting ''(D)''; by striking ''(v)'' and inserting ''(E)''; by striking ''(vi)'' and inserting ''(F)''; and by striking ''(vii)'' and inserting ''(G)''.

The Commentary to § 2B1.1 captioned ''Application Notes'' is amended in Note 3(F)(iii) by striking ''276a'' and inserting ''3142''.

The Commentary to § 2B1.1 captioned ''Application Notes'' is amended in Note 4(C)(iii) by striking ''his'' and inserting ''the addressee's''.

The Commentary to § 2B1.1 captioned ''Application Notes'' is amended in Note 7(E) by striking ''enhancements'' and inserting ''Chapter Three Adjustments''.

The Commentary to § 2B1.1 captioned ''Application Notes'' is amended in Note 8(C) by striking ''Enhancement'' and inserting ''Chapter Three Adjustment''.

The Commentary to § 2B1.1 captioned ''Application Notes'' is amended in Note 9 by striking the paragraph that begins '' 'Telecommunications service' has the meaning''; and by inserting after the paragraph that begins '' 'Produce' includes manufacture'' the following:

'' 'Telecommunications service' has the meaning given that term in 18 U.S.C. 1029(e)(9).''.

The Commentary to § 2B1.1 captioned ''Application Notes'', as amended by Amendment 1 submitted to Congress on May 1, 2009 (74 FR 21750), is further amended in Note 14(A) by striking ''this subsection'' and inserting ''subsection (b)(17)''; in the paragraph that begins '' 'Commodities law' '' by striking ''Commodities'' before ''Exchange'' and inserting ''Commodity''; by striking ''Commodities'' before ''Futures'' and inserting ''Commodity'';

In the paragraph that begins '' 'Commodity pool operator' '' by striking ''(4)'' and inserting ''(5)'' each place it appears; by striking ''Commodities'' and inserting ''Commodity'';

In the paragraph that begins '' 'Commodity trading advisor' '' by striking ''(5)'' and inserting ''(6)'' each place it appears; by striking ''Commodities'' and inserting ''Commodity'';

In the paragraph that begins '' 'Futures commission merchant' '' by striking ''Commodities'' and inserting ''Commodity'';

In the paragraph that begins '' 'Introducing broker' '' by striking ''Commodities'' and inserting ''Commodity'';

In the paragraph that begins '' 'Investment adviser' '' by inserting ''(a)(11)'' after ''202'';

In the paragraph that begins '' 'Person associated with a broker or dealer' '' by striking ''(48)'' and inserting ''(18)'';

and in the paragraph that begins '' 'Person associated with an investment adviser' '' by inserting ''(a)(17)'' after ''202''.

The Commentary to § 2D1.6 captioned ''Application Notes'' is amended in Note 1 by inserting ''a minimum offense level of 8 where the offense involves flunitrazepam (§ 2D1.1(c)(16));'' after ''(§ 2D1.1(c)(14));''.

The Commentary to § 2G1.1 captioned ''Application Notes'' is amended in Note 1 in the paragraph that begins '' 'Commercial sex act' '' by striking ''(c)(1)'' and inserting ''(e)(3)''.

The Commentary to § 2G1.3 captioned ''Application Notes'' is amended in Note 1 in the paragraph that begins '' 'Commercial sex act' '' by striking ''(c)(1)'' and inserting ''(e)(3)''.

The Commentary to § 2G2.1 captioned ''Statutory Provisions'' is amended by striking ''(b)'' and inserting ''(a)''.

The Commentary to § 2H3.1 captioned ''Application Notes'', as amended by Amendment 1 submitted to Congress on May 1, 2009 (74 FR 21750), is further amended in Note 4, in the paragraph that begins '' 'Personal information' means'', by striking ''(i)'' and inserting ''(A)''; by striking ''(ii)'' and inserting ''(B)''; by striking ''(iii)'' and inserting ''(C)''; by striking ''(iv)'' and inserting ''(D)''; by striking ''(v)'' and inserting ''(E)''; by striking ''(vi)'' and inserting ''(F)''; and by striking ''(vii)'' and inserting ''(G)''.

The Commentary to § 2H3.1 captioned ''Application Notes'' is amended in Note 5 by striking ''(i)'' and inserting ''(A)''; and by striking ''(ii)'' and inserting ''(B)''.

The Commentary to § 2J1.5 captioned ''Statutory Provisions'' is amended by striking ''Provision'' and inserting ''Provisions''; and by striking ''(2)'' and inserting ''(1)(B)''.

The Commentary to § 2J1.5 captioned ''Application Notes'' is amended in Note 2 by striking ''this offense'' and inserting ''an offense under 18 U.S.C. 3146(b)(1)(B)''.

The Commentary to § 2J1.5 captioned ''Background'' is amended by striking ''This offense covered by this section'' and inserting ''The offense under 18 U.S.C. 3146(b)(1)(B)''.

The Commentary to § 3B1.2 captioned ''Application Notes'' is amended in Note 6 by striking ''(3)'' and inserting ''(5)''.

The Commentary following § 3D1.5 captioned ''Illustrations of the Operation of the Multiple-Count Rules'' is amended in example 3 by striking ''he'' and inserting ''the defendant''; and by striking ''(8)'' and inserting ''(9)''.

Appendix A (Statutory Index), as amended by Amendment 8 submitted to Congress on May 1, 2009 (74 FR 21750), is further amended by striking the line that begins ''50 U.S.C. App. § 527(e)''; and by inserting after the line that begins ''50 U.S.C. App. § 462'' the following: ''50 U.S.C. App. § 527(e)2X5.2''.

Reason for Amendment: This amendment makes certain technical and conforming changes to commentary.

First, it updates obsolete statutory and guideline references in §§ 2A6.2 (Stalking or Domestic Violence), Application Note 4; 2B1.1 (Theft, Property Destruction, and Fraud), Application Notes 3(F)(iii) and 14(A); 2G1.1 (Promoting a Commercial Sex Act or Prohibited Sexual Conduct with an Individual Other than a Minor), Application Note 1; 2G1.3 (Promoting a Commercial Sex Act or Prohibited Sexual Conduct with a Minor; Transportation of Minors to Engage in a Commercial Sex Act or Prohibited Sexual Conduct; Travel to Engage in Commercial Sex Act or Prohibited Sexual Conduct with a Minor; Sex Trafficking of Children; Use of Interstate Facilities to Transport Information about a Minor), Application Note 1; 2G2.1 (Sexually Exploiting a Minor by Production of Sexually Explicit Visual or Printed Material; Custodian Permitting Minor to Engage in Sexually Explicit Conduct; Advertisement for Minors to Engage in Production), Statutory Provisions; 2J1.5 (Failure to Appear by Material Witness), Statutory Provisions; 3B1.2 (Mitigating Role), Application Note 6; and the Illustrations following 3D1.5 (Determining the Total Punishment).

Second, it makes clerical and stylistic changes to the Commentary to § 2B1.1; the Commentary to § 2H3.1 (Interception of Communications; Eavesdropping; Disclosure of Certain Private or Protected Information); and the Illustrations following § 3D1.5.

Third, it amends § 2D1.6 (Use of Communication Facility in Committing Drug Offense; Attempt or Conspiracy), Application Note 1, to ensure that its description of the various minimum offense levels that apply to controlled substances under § 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy) is more comprehensive (*i.e.,* by including in that description the minimum offense level that applies to flunitrazepam).

Finally, it amends Appendix A (Statutory Index) to ensure that the line reference to 50 U.S.C. App. § 527(e) is placed in the appropriate order.

[FR Doc. E9–21721 Filed 9–8–09; 8:45 am]

BILLING CODE 2211–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0319]

Agency Information Collection (Fiduciary Agreement) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 9, 2009.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0319'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@va.gov.* Please refer to ''OMB Control No. 2900–0319.''

SUPPLEMENTARY INFORMATION:

Titles: Fiduciary Agreement, VA Form 21–4703.

OMB Control Number: 2900–0319.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–4703 is a legal binding contract between VA and Federally appointed fiduciaries receiving VA funds on behalf of beneficiaries who were determined to be incompetent or under legal disability by reason of minority or court action. The form outlines the fiduciary's responsibility regarding the use of VA funds.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 29, 2009, at page 31112.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,467 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 17,600.

Dated: September 2, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–21567 Filed 9–8–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (VR&E Outcome)]

Agency Information Collection (VR&E Program National Outcome Follow-Up With Employment Based Rehabilitated Veterans Survey) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before October 9, 2009.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to VA's OMB Desk Officer, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–New (VR&E Outcome)'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@va.gov.* Please refer to

''OMB Control No. 2900–New (VR&E Outcome).''

SUPPLEMENTARY INFORMATION:

Title: Proposed Information Collection (VR&E Program National Outcome Follow-Up With Employment Based Rehabilitated Veterans Survey).

OMB Control Number: 2900–New (VR&E Outcome).

Type of Review: New collection.

Abstract: The VR&E program provides services and assistance to enable Veterans with service-connected disability to achieve employment-based rehabilitated status. VA will use the National Outcome Follow-Up With Employment Based Rehabilitated Veterans survey to follow up with Veterans who were declared ''Rehabilitated'' by entering suitable employment after completing a VR&E vocational training program. The data collected will assist VA in analyzing the outcome of VR&E services provided to Veterans who achieved employment-based rehabilitated status.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 12, 2009, at page 28106.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,000 hours.

Estimated Average Burden per Respondent: 7.5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 8,000.

Dated: September 2, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–21568 Filed 9–8–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0524]

Proposed Information Collection (VA Police Officer Pre-Employment Screening Checklist); Comment Request

AGENCY: Office of Operations, Security, and Preparedness, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Operations, Security, and Preparedness (OSP), Department of Veterans Affairs, is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension without change of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine an applicant's qualification and suitability as a VA police officer.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 9, 2009.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov*; or to Harry Brist, Office of Operations, Security, and Preparedness, Department of Veterans Affairs, LETC, 2200 Fort Root Drive, Little Rock, AR 72114 or e-mail: *harry.brist@va.gov*. Please refer to ''OMB Control No. 2900–0524'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Harry Brist at (501) 257–4051 or FAX (501) 257–4145.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OSP invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OSP's functions, including whether the information will have practical utility; (2) the accuracy of OSP's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: VA Police Officer Pre-Employment Screening Checklist, VA Form 0120.

OMB Control Number: 2900–0524.

Type of Review: Extension of a currently approved collection.

Abstract: VA personnel complete VA Form 0120 to document pre-employment history and conduct background checks on applicants seeking employment as VA police officers. VA will use the data collected to determine the applicant's qualification and suitability to be hired as a VA police officer.

Affected Public: State, Local, or Tribal Government.

Estimated Annual Burden: 250 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: One time.

Estimated Number of Responses: 1,500.

Dated: September 2, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–21569 Filed 9–8–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0358]

Proposed Information Collection (Supplemental Information for Change of Program or Reenrollment After Unsatisfactory Attendance, Conduct or Progress) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine a claimant's eligibility for additional educational benefits for a change of program or reenrollment after unsatisfactory attendance, conduct or progress.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 9, 2009.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0358'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501—3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Supplemental Information for Change of Program or Reenrollment after Unsatisfactory Attendance, Conduct or Progress, VA Form 22–8873.

OMB Control Number: 2900–0358.

Type of Review: Extension of a currently approved collection.

Abstract: Veterans and other eligible persons may change their program of education under conditions prescribed by Title 38 U.S.C. 3691. A claimant can normally make one change of program without VA approval. VA approval is required if the claimant makes any additional change of program. Before VA can approve benefits for a second or subsequent change of program, VA must first determine that the new program is suitable to the claimant's aptitudes, interests, and abilities, or that the cause of any unsatisfactory progress or conduct has been resolved before entering into a different program. VA Form 22–8873 is used to gather the necessary information only if the suitability of the proposed training program cannot be established from information already available in the claimant's VA education records or the results of academic or vocational counseling are not available to VA.

Affected Public: Individuals or households.

Estimated Annual Burden: 14,629 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 29,258.

Dated: September 2, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–21571 Filed 9–8–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0017]

Agency Information Collection (Annual-Final Report and Account) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 9, 2009.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0017'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@va.gov.* Please refer to ''OMB Control No. 2900–0017.''

SUPPLEMENTARY INFORMATION:

Titles:

a. Annual-Final Report and Account, VA Form 21–4706.

b. Federal Fiduciary's Account, VA Form 21–4706b.

c. Court Appointed Fiduciary's Account, VA Form 21–4706c.

d. Account Book, VA Form 21–4718.

e. Certificate of Balance on Deposit and Authorization To Disclose Financial Records (Pursuant to Title 38, U.S.C., Chapter 55 and Title 12, U.S.C., Chapter 35), VA Form 21–4718a.

OMB Control Number: 2900–0017.

Type of Review: Extension of a currently approved collection.

Abstract: VA maintains supervision of the distribution and use of VA benefits paid to fiduciaries on behalf of VA claimants who are incompetent, a minor, or under legal disability. The forms are used to verify beneficiaries' deposit remaining at a financial institution against a fiduciary's accounting. The following forms will be used to ensure claimants' benefits payments are administered properly.

a. VA Forms 21–4706, 4706b and 4706c are used by estate to determine proper usage of benefits paid to fiduciaries. The 21–4706 and 21–4706b are both necessary to conform to requirement of various state courts.

b. VA Form 21–4718 is provided to VA fiduciaries to submit accountings to either State courts or the VA. It is not a reporting form per se but a vehicle to assist the fiduciary in accurately maintaining records of monies received and spent.

c. VA Form 21–4718a—Fiduciaries are required to obtain certifications that the balances remaining on deposit in financial institutions as shown on accountings are correct. Certifying official at a financial institution completing the form must affix the institution's official seal or stamp. The data collected is used to appoint an appropriate fiduciary for a VA beneficiary and to prevent fiduciaries from supplying false certification, embezzling funds, and possibly prevent and/or identify fraud, waste and abuse of government funds paid to fiduciaries on behalf of VA beneficiaries.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 29, 2009, at pages 31111–31112.

Affected Public: Individuals or households.

Estimated Annual Burden:

a. Annual-Final Report and Account, VA Form 21–4706—1,100.

b. Federal Fiduciary's Account, VA Form 21–4706b—6,300.

c. Court Appointed Fiduciary's Account, VA Form 21–4706c—2,000.

d. Account Book, VA Form 21–4718—20,000.

e. Certificate of Balance on Deposit and Authorization To Disclose Financial Records, VA Form 21–4718a–166.

Estimated Average Burden per Respondent:

a. Annual-Final Report and Account, VA Form 21–4706—30 minutes.

b. Federal Fiduciary's Accounts, VA Form 21–4706b—27 minutes.

c. Court Appointed Fiduciary's Account, VA Form 21–4706c—30 minutes.

d. Account Book, VA Form 21–4718–2½ hours.

e. Certificate of Balance on Deposit and Authorization To Disclose Financial Records, VA Form 21–4718a–3 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents:

a. Annual-Final Report and Account, VA Form 21–4706–2,200.

b. Federal Fiduciary's Accounts, VA Form 21–4706b–14,000.

c. Court Appointed Fiduciary's Account, VA Form 21–4706c–4,000.

d. Account Book, VA Form 21–4718–8,000.

e. Certificate of Balance on Deposit and Authorization To Disclose Financial Records, VA Form 21–4718a–3,312.

Dated: September 2, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–21572 Filed 9–8–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0427]

Agency Information Collection (Former POW Medical History), VA Form 10–0048 Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 9, 2009.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov*; or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0427'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, fax (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0427.''

SUPPLEMENTARY INFORMATION:

Titles: Former POW Medical History, VA Form 10–0048.

OMB Control Number: 2900–0427.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 10–0048 is completed by a VA physician during a medical examination of a Former Prisoner of War veteran. VA will use the data collected as a guide and reference for treatment planning for the FPOW veteran.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 29, 2009, at pages 31110–31111.

Affected Public: Individuals or households.

Estimated Total Annual Burden: 113 hours.

Estimated Average Burden per Respondent: 90 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 75.

Dated: September 2, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–21573 Filed 9–8–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0260]

Proposed Information Collection (Request for and Authorization To Release Medical Records or Health Information) Activity: Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to obtain a patient written consent to disclose medical records or health information to individuals or third parties.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 9, 2009.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov*; or to Mary Stout, Veterans Health Administration (193E1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *mary.stout@va.gov*. Please refer to ''OMB Control No. 2900–0260'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Mary Stout, (202) 461–5867 or FAX (202) 273–9381.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the

information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Request for and Authorization To Release Medical Records or Health Information, VA Form 10–5345.

b. Individual's Request for a Copy of Their Own Health Information, VA Form 10–5345a.

c. My HealtheVet (MHV)—Individuals' Request for a Copy of Their Own Health Information, VA Form 10–5345a–MHV.

OMB Control Number: 2900–0260.

Type of Review: Revision of a currently approved collection.

Abstract:

a. VA Form 10–5345 is used to obtain a written consent from patients before information concerning his or her treatment for alcoholism or alcohol abuse, drug abuse, sickle cell anemia, or infection with the human immunodeficiency virus (HIV) can be disclosed to private insurance companies, physicians and other third parties.

b. Patients complete VA Form 10–5345a to request a copy of their health information maintained at Department of Veterans Affairs.

c. VA Form 10–5345a–MHV is completed by individuals requesting their health information electronically through My HealtheVet.

Affected Public: Individuals or households.

Estimated Total Annual Burden:

a. VA Form 10–5345—15,000 hours.

b. VA Form 10–5345a—15,000 hours.

c. VA Form 10–5345a–MVH—35,000 hours.

Estimated Average Burden per Respondent:

a. VA Form 10–5345—3 minutes.

b. VA Form 10–5345a—3 minutes.

c. VA Form 10–5345a–MVH—3 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. VA Form 10–5345—300,000.

b. VA Form 10–5345a—300,000.

c. 10–5345a–MVH—700,000.

Dated: September 2, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–21574 Filed 9–8–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (10–0468)]

Proposed Information Collection (Internet Student CPR Web Registration Application); Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs, is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to establish an online Web registration application.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 9, 2009.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov*; or to Mary Stout, Veterans Health Administration (193E1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *mary.stout@va.gov*. Please refer to ''OMB Control No. 2900–New (10–0468)'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Mary Stout at (202) 461–5867 or FAX (202) 273–9381.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Internet Student CPR Web Registration Application, VA Form 10–0468.

OMB Control Number: 2900–New (10–0468).

Type of Review: New collection.

Abstract: The data collected on VA Form 10–0468 will be used to establish a roster on students attending courses provided by the Minneapolis VA Medical Center Education Service. Students will be able to identify and register for a training course online without waiting for the Registrar to return calls or e-mails to confirm enrollment.

Affected Public: Individuals or households.

Estimated Annual Burden: 125 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Bi-Annually.

Estimated Number of Responses: 1,500.

Dated: September 2, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–21576 Filed 9–8–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (10–0473)]

Proposed Information Collection (Millennium Bill Emergency Care Provider Satisfaction Survey); Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on

information needed to improve customer satisfactions with VHA's claim reimbursement process.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 9, 2009.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov;* or to Mary Stout, Veterans Health Administration (193E1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *mary.stout@va.gov*. Please refer to ''OMB Control No. 2900–New (10–0473)'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Mary Stout at (202) 461–5867 or FAX (202) 273–9381.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Millennium Bill Emergency Care Provider Satisfaction Survey, VA Form 10–0473.

OMB Control Number: 2900–New (10–0473).

Type of Review: New collection.

Abstract: VA Form 10–0473 will be used to survey non-VA healthcare providers who participate in the Millennium Bill Fee Reimbursement/Purchased Care program on their satisfaction with VHA's claims processing services. VA will use the data collected to improve the claims processing program.

Affected Public: Individuals or households.

Estimated Annual Burden: 9 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 110.

Dated: September 2, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–21575 Filed 9–8–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0554]

Agency Information Collection (Homeless Providers Grant and per diem Program) Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 9, 2009.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov*; or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0554'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, fax (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov*. Please refer to ''OMB Control No. 2900–0554.''

SUPPLEMENTARY INFORMATION:

Titles: a. Homeless Providers Grant and *Per Diem* Program, Capital Grant Application, VA Form 10–0361–CG.

b. Homeless Providers Grant and *Per Diem* Program, Life Safety Code Application, VA Form 10–0361–LSC.

c. Homeless Providers Grant and *Per Diem* Program, *Per Diem* Only Application, VA Form 10–0361–PDO.

d. Homeless Providers Grant and *Per Diem* Program, Special Needs Application, VA Form 10–0361–SN.

e. Compliance Reports for *Per Diem* and Special Needs Grants. No form needed. May be reported to VA in standard business narrative.

f. Homeless Providers Grant and *Per Diem* Program, Technical Assistance Application, VA Form 10–0361–TA.

g. Compliance Reports for Technical Assistance Grants. No form needed. May be reported to VA in standard business narrative.

OMB Control Number: 2900–0554.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 10–0361 series, Homeless Providers Grant and *Per Diem* Program, will be used to evaluate applicant's eligibility to receive a grant and/or *Per Diem* payments which provide supportive housing and services to assist homeless veterans transition to independent living. VA will use the data to apply specific criteria to rate and evaluate each application; and to obtain information necessary to ensure that Federal funds are awarded to applicants who are financially stable and who will conduct the program for which a grant and/or *Per Diem* award was made.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 22, 2009, at pages 29537–29538.

Affected Public: Not-for-profit institutions.

Estimated Total Annual Burden:

a. Homeless Providers Grant and *Per Diem* Program, Capital Grant Application, VA Form 10–0361–CG—3,500 hours.

b. Homeless Providers Grant and *Per Diem* Program, Life Safety Code Application, VA Form 10–0361–LSC—2,000 hours.

c. Homeless Providers Grant and *Per Diem* Program, *Per Diem* Only Application, VA Form 10–0361–PDO—3,000 hours.

d. Homeless Providers Grant and *Per Diem* Program, Special Needs Application, VA Form 10–0361–SN—4,000 hours.

e. Compliance Reports for *Per Diem* and Special Needs Grants—1,500 hours.

f. Homeless Providers Grant and *Per Diem* Program, Technical Assistance Application, VA Form 10–0361–TA—250 hours.

g. Compliance Reports for Technical Assistance Grants—90 hours.

Estimated Average Burden per Respondent:

a. Homeless Providers Grant and *Per Diem* Program, Capital Grant Application, VA Form 10–0361–CG—35 hours.

b. Homeless Providers Grant and *Per Diem* Program, Life Safety Code Application, VA Form 10–0361–LSC—10 hours.

c. Homeless Providers Grant and *Per Diem* Program, *Per Diem* Only Application, VA Form 10–0361–PDO—20 hours.

d. Homeless Providers Grant and *Per Diem* Program, Special Needs Application, VA Form 10–0361–SN—20 hours.

e. Compliance Reports for *Per Diem* and Special Needs Grants—5 hours.

f. Homeless Providers Grant and *Per Diem* Program, Technical Assistance Application, VA Form 10–0361–TA—10 hours.

g. Compliance Reports for Technical Assistance Grants—2.25 hours.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. Homeless Providers Grant and *Per Diem* Program, Capital Grant Application, VA Form 10–0361–CG—100.

b. Homeless Providers Grant and *Per Diem* Program, Life Safety Code Application, VA Form 10–0361–LSC—200.

c. Homeless Providers Grant and *Per Diem* Program, *Per Diem* Only Application, VA Form 10–0361–PDO—150.

d. Homeless Providers Grant and *Per Diem* Program, Special Needs Application, VA Form 10–0361–SN—200.

e. Compliance Reports for *Per Diem* and Special Needs Grants—300.

f. Homeless Providers Grant and *Per Diem* Program, Technical Assistance Application, VA Form 10–0361–TA—25.

g. Compliance Reports for Technical Assistance Grants—40.

Dated: September 2, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–21577 Filed 9–8–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Disability Compensation; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Advisory Committee on Disability Compensation will meet on September 21–22, 2009, in the Carlton Ballroom at the St. Regis, 923 16th and K Streets, NW., Washington, DC, from 8:30 a.m. to 5 p.m. each day. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities. The Committee is to assemble and review relevant information relating to the nature and character of disabilities arising from service in the Armed Forces, provide an ongoing assessment of the effectiveness of the rating schedule and give advice on the most appropriate means of responding to the needs of veterans relating to disability compensation.

On September 21 and the morning of September 22, the Committee will receive briefings about studies on compensation for Veterans with service-connected disabilities and other Veteran benefits programs. On the afternoon of September 22, the Committee will break into subcommittees to prepare recommendations. Time will also be allocated during the afternoon of September 22 for receiving public comments. Public comments will be limited to three minutes each. Individuals wishing to make oral statements before the Committee will be accommodated on a first-come, first-served basis. Individuals who speak are invited to submit 1–2 page summaries of their comments at the time of the meeting for inclusion in the official meeting record.

The public may submit written statements for the Committee's review to Ms. Ersie Farber, Designated Federal Officer, Department of Veterans Affairs, Veterans Benefits Administration (211A), 810 Vermont Avenue, NW., Washington, DC 20420. Any member of the public wishing to attend the meeting or seeking additional information should contact Ms. Farber at (202) 461–9728 or *Ersie.farber@va.gov*.

Dated: September 2, 2009.

By Direction of the Secretary.

Vivian Drake,

Acting, Committee Management Officer.

[FR Doc. E9–21705 Filed 9–8–09; 8:45 am]

BILLING CODE 8320–01–P

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H.R. 774/P.L. 111–50

To designate the facility of the United States Postal Service located at 46-02 21st Street in Long Island City, New York, as the ''Geraldine Ferraro Post Office Building''. (Aug. 19, 2009; 123 Stat. 1979)

H.R. 987/P.L. 111–51

To designate the facility of the United States Postal Service located at 601 8th Street in Freedom, Pennsylvania, as the ''John Scott Challis, Jr. Post Office''. (Aug. 19, 2009; 123 Stat. 1980)

H.R. 1271/P.L. 111–52

To designate the facility of the United States Postal Service located at 2351 West Atlantic Boulevard in Pompano Beach, Florida, as the ''Elijah Pat Larkins Post Office Building''. (Aug. 19, 2009; 123 Stat. 1981)

H.R. 1275/P.L. 111–53

Utah Recreational Land Exchange Act of 2009 (Aug. 19, 2009; 123 Stat. 1982)

H.R. 1397/P.L. 111–54

To designate the facility of the United States Postal Service located at 41 Purdy Avenue in Rye, New York, as the ''Caroline O'Day Post Office Building''. (Aug. 19, 2009; 123 Stat. 1989)

H.R. 2090/P.L. 111–55

To designate the facility of the United States Postal Service located at 431 State Street in Ogdensburg, New York, as the ''Frederic Remington Post Office Building''. (Aug. 19, 2009; 123 Stat. 1990)

H.R. 2162/P.L. 111–56

To designate the facility of the United States Postal Service located at 123 11th Avenue South in Nampa, Idaho, as the ''Herbert A Littleton Postal Station''. (Aug. 19, 2009; 123 Stat. 1991)

H.R. 2325/P.L. 111–57

To designate the facility of the United States Postal Service located at 1300 Matamoros Street in Laredo, Texas, as the ''Laredo Veterans Post Office''. (Aug. 19, 2009; 123 Stat. 1992)

H.R. 2422/P.L. 111–58

To designate the facility of the United States Postal Service located at 2300 Scenic Drive in Georgetown, Texas, as the ''Kile G. West Post Office Building''. (Aug. 19, 2009; 123 Stat. 1993)

H.R. 2470/P.L. 111–59

To designate the facility of the United States Postal Service located at 19190 Cochran Boulevard FRNT in Port Charlotte, Florida, as the ''Lieutenant Commander Roy H. Boehm Post Office Building''. (Aug. 19, 2009; 123 Stat. 1994)

H.R. 2938/P.L. 111–60

To extend the deadline for commencement of construction of a hydroelectric project. (Aug. 19, 2009; 123 Stat. 1995)

H.J. Res. 44/P.L. 111–61

Recognizing the service, sacrifice, honor, and professionalism of the Noncommissioned Officers of the United States Army. (Aug. 19, 2009; 123 Stat. 1996)

S.J. Res. 19/P.L. 111–62

Granting the consent and approval of Congress to amendments made by the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact. (Aug. 19, 2009; 123 Stat. 1998)

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