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Presidential Documents

Title 3—

The President

Proclamation 8465 of December 15, 2009

65th Anniversary of the Battle of the Bulge, 2009

By the President of the United States of America

A Proclamation

In December 1944, a brave band of American soldiers, stationed in the Ardennes Forest region on the Western Front of Europe, who were surrounded, poorly supplied and surviving in brutally cold conditions, took the brunt of a furious German assault. Their valor defined not just the beginning of the end of a World War, but also one of the greatest generations of Americans. Like patriots before them, they stood resolute, confident in their training, and determined to preserve those enduring American ideals of freedom and justice. On the 65th Anniversary of the Battle of the Bulge, a grateful Nation remembers the fallen who gave their lives in that critical battle, and we pay tribute to the heroes whose indomitable strength led to victory in World War II.

When asked about the Battle of the Bulge, British Prime Minister Sir Winston Churchill remarked, ''This is undoubtedly the greatest American battle of the war and will, I believe, be regarded as an ever-famous American victory.'' Confronting not just the advancing German Army, but the elements, American service members withstood the assault and eventually repelled the Nazi forces, but at tremendous cost in lives and wounded soldiers.

On this anniversary, we reflect on the enduring commitment of our Armed Forces in defending our liberty, as inspiring today as it was in 1944. The discipline and courage displayed in the Battle of the Bulge continues in Iraq, Afghanistan, and wherever our men and women in uniform are serving. They represent the best of our Nation and we are eternally grateful for their service and sacrifice.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim Wednesday, December 16, 2009, as the 65th Anniversary of the Battle of the Bulge. I encourage all Americans to observe this solemn day of remembrance with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of December, 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. E9–30411
Filed 12–18–09; 8:45 am]
Billing code 3195–W0–P

Presidential Documents

Executive Order 13524 of December 16, 2009

Amending Executive Order 12425 Designating Interpol as a Public International Organization Entitled To Enjoy Certain Privileges, Exemptions, and Immunities

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1 of the International Organizations Immunities Act (22 U.S.C. 288), and in order to extend the appropriate privileges, exemptions, and immunities to the International Criminal Police Organization (INTERPOL), it is hereby ordered that Executive Order 12425 of June 16, 1983, as amended, is further amended by deleting from the first sentence the words ''except those provided by Section 2(c), Section 3, Section 4, Section 5, and Section 6 of that Act'' and the semicolon that immediately precedes them.

THE WHITE HOUSE,
December 16, 2009.

[FR Doc. E9–30413
Filed 12–18–09; 8:45 am]
Billing code 3195–W0–P

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 760

RIN 0560–AI07

Dairy Economic Loss Assistance Payment Program

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: This rule implements the new Dairy Economic Loss Assistance Payment (DELAP) program. The DELAP program will assist dairy producers by providing payments to producers who produced and marketed milk in the United States at some time from February through July 2009. The payments provided by the DELAP program are intended to offset a portion of the dairy producers' losses resulting from milk prices that were far below production costs.

DATES: *Effective Date:* December 17, 2009.

FOR FURTHER INFORMATION CONTACT: Danielle Cooke, Special Programs Manager, Farm Service Agency (FSA), U.S. Department of Agriculture (USDA), STOP 0512, 1400 Independence Avenue, SW., Washington, DC 20250–0512; telephone (202) 720–1919; fax (202) 690–1536; e-mail, *Danielle.Cooke@wdc.usda.gov.* Persons with disabilities who require alternative means for communications (Braille, large print, audio tape, *etc.*) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (2010 Agriculture Appropriations Bill, Pub. L. 111–80) provides funds for the Secretary of Agriculture to assist dairy producers. This financial assistance is authorized by section 10104 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171, commonly known as the 2002 Farm Bill), to cover economic losses incurred by dairy producers. The statute provides that the Secretary may provide assistance for economic losses in such manner as the Secretary considers appropriate and thus provides a wide discretion in that regard, subject to appropriations. Until now, no funds have been appropriated for the program. However, the 2010 Agriculture Appropriations Bill provides $290 million for payments to dairy producers. This, in fact, is the first time funds have been appropriated to implement section 10104 and the appropriations bill provides that the program can be implemented without regard to certain procedural requirements that might otherwise apply such as requirements dealing with comment. That is, the appropriations bill specifically exempts this rule from prior comment and thus allows the rule to become final without prior comment.

Farm commodity prices are always volatile and milk production is cyclical. In 2009, dairy producers experienced the lowest prices for milk in recent history, when prices fell from near record highs that had encouraged the expansion of the dairy herd. Dairy producers continue to experience severe economic pressure that started in late 2008 and continued into 2009 due to declining demand caused by the world-wide recession. Milk prices have declined substantially in 2009, with the national price for milk averaging $16.80 per hundredweight (cwt.) in the fourth quarter of 2008 and averaging $12.23 per cwt. in the first quarter of 2009, a 27 percent decline. USDA estimates current national average total production costs at $22.32 per cwt. and average operating costs at $13.86 per cwt. On average, the price U.S. dairy producers received for milk marketed in the summer of 2009 was about half of what it costs them to produce milk.

The Secretary of Agriculture is implementing the DELAP program to assist producers in this time of economic hardship. The DELAP program will be implemented immediately upon the effective date of this rule. In order that this assistance might be provided as quickly and efficiently as possible to the benefit of those to whom the relief is directed, this rule will make benefits using the data already reported by dairy operations to the Farm Service Agency under the existing program. Like existing assistance programs, DELAP will provide assistance to producer on an operation by operation basis, and DELAP will use existing data, where possible, so that payments may be made in many cases immediately after the publication of this rule. Benefit limits, based on amounts of production, are by operation. Producers of milk may be eligible for benefits with respect to more than one operation. Other limits, such as a disallowance of benefits to persons with an adjusted gross income limit over a certain amount are described below and in the rule. Those parties (State and local governments and their political subdivisions and related agencies) excluded, by statute from some existing programs, will also be excluded from the DELAP program so as to provide consistency between programs and general Congressional directives with respect to dairy programs.

Eligibility and Request for Benefits

As implemented in this rule, dairy producers that both produced milk in the United States and commercially marketed it from February through July 2009 may be eligible for DELAP. For a dairy producer to be eligible for DELAP, the producer and the dairy operation in which the producer has a share must:

(1) Have produced milk in the United States and marketed milk commercially at some time from February through July 2009;

(2) Have milk production data, submitted for MILC, for the applicable months recorded at the local Farm Service Agency (FSA) county office or provide a request for DELAP benefits with such data; and

(3) Certify to all milk production produced and marketed from February through July 2009 by the dairy operation.

In addition, the dairy producer must meet the average adjusted gross income (''AGI'') limitations in 7 CFR part 1400 to be eligible for DELAP. Any dairy producer who has annual average adjusted gross nonfarm income in excess of $500,000 for calendar years 2005 through 2007 is not eligible for

DELAP. The use of AGI limits for many programs, are provided for by statute and include rules of ''attribution'' such that the ''AGI'' limits apply through multiple layers of organization. For example if Individual A is over the limit and owns 100 percent of Corporation C which had a 20 percent interest in Corporation B which had a 50 percent interest in milk producer Corporation A, the AGI of Individual A would result in a 10 percent (100 percent times 20 percent times 50 percent) loss in benefits to Corporation A. No statute as such requires the application of the AGI limits to DELAP. However, in order that existing data can be the basis for DELAP without further application and to reflect the general principles of farm programs reflected in the application of the AGI test to many other programs, it is has been decided to apply the same AGI limits that apply to existing programs. In addition, thereby helping to insure that benefits go to those with greater need. The Secretary's DELAP discretion has been utilized accordingly.

Restrictions also apply to this program including, but not limited to, those pertaining to highly erodible land and wetland conservation provisions in 7 CFR part 12. Any dairy producer that violates highly erodible land and wetland conservation provisions will be ineligible for program benefits; if it is determined after a payment is issued for the DELAP program that a violation occurred, then repayment of the benefit plus interest would be required.

FSA will use existing MILC records for production data for February through July 2009 to calculate and issue payments. The period February to July was chosen because it allows for six months of data, and February was the first month of the calendar year in which MILC payments were made, thus providing a greater likelihood of actual data in the county offices. Producers were incentivized by the payments to provide the data. Six months of data should provide a fair picture of the size of the operation. Based on current information, FSA estimates that more than 95 percent of eligible producers will have a full data set so to be able to receive benefits automatically and will not need to request benefits.

Dairy producers that do not have production records at the FSA county office, specifically for the months of February through July 2009, will need to request benefits during the DELAP application period. The application period for DELAP will be 30 days, beginning December 17, 2009.

During the application period, dairy producers may submit the request for benefits to FSA by mail, email, or fax. There is not a specific application form that is required for this program. The request for benefits may be in the form of a letter or memo that includes the production data FSA needs to determine payment eligibility and payment amount. In addition to production data, the request for benefits must include:

- The name and location of the dairy operation;
- Contact information for the dairy operation, including telephone number; and
- Name, share percentage, and tax identification number for each entity or individual producer receiving a share of the payment.

FSA will not approve any requests for benefits received by FSA after the application period closes. A specific application period with a cutoff date is needed because FSA will need to know the total production quantity of requests to calculate the payments. A limited amount of funds will be held in reserve for new applications, appeals, and errors. In order to expedite the availability of funds, it has been determined to be in the public interest to limit the application period to 30 days.

Payments

Qualifying by operation, eligible dairy producers can receive a one-time payment based on the amount of milk both produced and commercially marketed by the dairy operation during the months of February through July 2009. FSA will use the production information from February through July 2009 to estimate a full year's production amount and use that amount of annual production to calculate the payments. In other words, the dairy operation's actual production for the whole year is not specifically relevant to the payment calculation. Rather, a dairy operation's eligible payment quantity for DELAP purposes will be two times the commercially marketed milk production from February through July 2009, up to a maximum of six million pounds per dairy operation. The six million pound limit is intended to insure, in light of the funding limit, that funding is distributed equitably in a way that does not unduly dilute the amount of assistance that would be available to smaller dairies. Such a limit has been applied in several predecessor programs. Challenges were made in some prior programs to the Secretary's use of discretion to set such limits in programs with limited funds and those limits were upheld as being valid exercises of the Secretary's authority. FSA will make payments to each dairy producer for the dairy operation based on the dairy operation's eligible payment quantity and the dairy producer's share in the dairy operation. For each dairy producer in a dairy operation that exceeds the average adjusted gross income limit, the payment to that dairy operation will be reduced commensurately because that dairy producer will not receive a payment and therefore, no producer in the dairy operation will receive a payment for that share of the production.

Payment Rate

A national per cwt. payment rate will be determined based on the factoring of the available $290 million, less the reserve established for new applications, appeals, and errors, divided by the total pounds of eligible milk production from all eligible dairy operations. As noted earlier, there will be an eligibility cap per operation of six million pounds of milk production. Because the funds appropriated for this program are a fixed amount set in the 2010 Agricultural Appropriations Bill, the national payment rate and individual payments can only be calculated after the total eligible quantity of milk production has been determined from eligible program participants. Payment eligibilities will be calculated on an operation by operation basis. A dairy producer may be involved in more than one eligible dairy operation and the production cap is per operation (using the same definition for ''operation'' as used in the MILC program), not per individual. Payments to eligible producers will be calculated by multiplying the eligible payment quantity in pounds by the national payment rate.

Based on current information, FSA estimates that 875 million cwt. of milk production will be eligible for payment. FSA will establish a reserve of $10 million. Therefore, the expected payment rate is approximately $0.32 per cwt. ($280 million divided by 875 million cwt.). FSA will calculate the payment rate and begin payments shortly after publishing this rule for dairy producers where payment data is based on existing records and as soon as possible, perhaps in January or February 2010 for dairy producers that request benefits during the application period. Producers who believe that they are entitled to a payment who have not received a payment should contact their FSA county office. Persons who believe that they are entitled to a higher payment should also contact that office.

If a participant in the DELAP program succeeds through the appeal processes in 7 CFR parts 11 or 780 in obtaining a

determination that additional payments are due to that participant, the participant will be paid only to the extent that funding under the DELAP program remains available.

Verification and Penalties

Information recorded in the FSA county office or provided on requests for benefits and supporting documentation will be subject to verification by FSA. False certifications by producers will carry strict penalties and FSA will validate information provided with random spot-checks. Dairy producers determined to have made any false certifications or adopted any misrepresentation, scheme, or device that defeats the program's purpose will be required to refund any payments issued under this program with interest, and may be subject to other civil, criminal, or administrative remedies.

Notice and Comment

These regulations are exempt from the notice and comment requirements of the Administrative Procedures Act (5 U.S.C. 553), as specified in section 748 (b)(2) of the 2010 Agriculture Appropriations Bill, which requires that these regulations be promulgated and administered without regard to the notice and comment provisions of section 553 of title 5 of the United States Code or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking. Therefore, these regulations are issued as final.

Executive Order 12866

The Office of Management and Budget (OMB) designated this final rule as economically significant under Executive Order 12866 and, therefore, OMB reviewed this rule. A cost benefit assessment of this rule is summarized below and is available from the contact information listed above.

Summary of Economic Impacts

The DELAP program is expected to provide $290 million in payments to dairy producers during fiscal year 2010. That is the full amount authorized to be appropriated for DELAP. These are direct payments; the cost to the government is equivalent to the total payments (benefits) to producers. All of the payments are expected to be made in FY 2010.

The DELAP program provides payment to dairy producers in FY 2010 based on production in February through July 2009. It is not expected to result in a significant change in the price of milk for consumers, because it is not subsidizing the cost of current production or providing price support. Rather, it is providing financial assistance for economic losses in the past. The payment is estimated to be less than one-third of one cent per pound of milk (less than three cents per gallon), so it is unlikely to result in a noticeable change in consumer milk prices. In fact, the opposite is possible, the DELAP program could result in a slight decrease in milk prices by keeping more cows in milk production than would be the case without the DELAP program.

Regulatory Flexibility Act

This rule is not subject to the Regulatory Flexibility Act because FSA is not required to publish a notice of proposed rulemaking for this rule.

Environmental Review

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and FSA regulations for compliance with NEPA (7 CFR part 799). While DELAP eligibility decisions involve choices, the decision to make DELAP payments in some fashion, and the amount of payments to make, is non-discretionary in nature and the actual payment to be made under this rule will be based on actions that have already occurred. That being the case, FSA has determined that no environmental assessment or environmental impact statement need be prepared.

Executive Order 12372

This program is not subject to Executive Order 12372, which requires consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published in the **Federal Register** on June 24, 1983 (48 FR 29115).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule is not retroactive and does not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. Before any judicial action may be brought regarding provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13132

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

Executive Order 13175

The policies contained in this rule do not impose substantial unreimbursed direct compliance costs on Indian tribal governments or have tribal implications that preempt tribal law.

Unfunded Mandates

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA, Pub. L. 104–4) establishes requirements for Federal agencies to assess the effects of their regulatory actions that impose ''Federal Mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or the private sector, of $100 million or more in any one year. This rule contains no Federal mandates as defined by Title II of UMRA for State, local, or tribal governments or for the private sector. In addition, FSA was not required to publish a notice of proposed rulemaking for this rule. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

Section 748(b)(3) of the 2010 Agriculture Appropriations Bill requires that the Secretary use the authority in section 808 of title 5, United States Code, which allows an agency to forgo SBREFA's usual 60-day Congressional Review delay of the effective date of a major regulation if the agency finds that there is a good cause to do so. Accordingly and given the current economic situation in the dairy industry, it is appropriate to make this rule effective as soon as possible so that benefits may be provided. Therefore, this rule is effective upon public display by the Office of the Federal Register.

Federal Assistance Programs

This rule applies to the following Federal assistance program that is not in the Catalog of Domestic Federal Assistance: DELAP.

Paperwork Reduction Act

The regulations in this rule are exempt from requirements of the Paperwork Reduction Act (44 U.S.C.

Chapter 35), as specified in section 748(b)(2)(C) of the 2010 Agriculture Appropriations Bill, which provides that these regulations be promulgated and administered without regard to the Paperwork Reduction Act.

E-Government Act Compliance

FSA 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.

List of Subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Pesticide and pests, Reporting and recordkeeping requirements.

■ For the reasons discussed above, this rule amends 7 CFR part 760 as follows:

PART 760—INDEMNITY PAYMENT PROGRAMS

■ 1. Revise the authority citation for part 760 to read as follows:

Authority: 7 U.S.C. 4501, 7 U.S.C. 1531, 16 U.S.C. 3801, note, and 19 U.S.C. 2497; Title III, Pub. L. 109–234, 120 Stat. 474; Title IX, Pub. L. 110–28, 121 Stat. 211; and Sec. 748, Pub. L. 111–80, 123 Stat. 2131.

■ 2. Add subpart N to read as follows:

Subpart N—Dairy Economic Loss Assistance Payment Program

Sec.

Subpart N—Dairy Economic Loss Assistance Payment Program

§ 760.1301 Administration.

(a) This subpart establishes, subject to the availability of funds, the terms and conditions under which the Dairy Economic Loss Assistance Payments (DELAP) program as authorized by section 10104 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171) will be administered with respect to funds appropriated under Section 748 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (2010 Agriculture Appropriations Bill, Pub. L. 111–80).

(b) The DELAP program will be administered under the general supervision of the Administrator, FSA, and the Deputy Administrator for Farm Programs, FSA (who is referred to as the ''Deputy Administrator'' in this part), and will be carried out by FSA's Price Support Division (PSD) and Kansas City Management Office (KCMO).

(c) FSA representatives do not have authority to modify or waive any of the provisions of the regulations of this subpart, except as provided in paragraph (d) of this section.

(d) The State committee will take any action required by the provisions of this subpart that has not been taken by the county committee. The State committee will also:

(1) Correct or require the county committee to correct any action taken by the county committee that is not in compliance with the provisions of this subpart.

(2) Require a county committee to not take an action or implement a decision that is not in compliance with the provisions of this subpart.

(e) No provision or delegation of this subpart to PSD, KCMO, a State committee, or a county committee will preclude the Administrator, FSA, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by PSD, KCMO, a State committee, or a county committee.

(f) The Deputy Administrator may waive or modify non-statutory deadlines and other program requirements of this part in cases where lateness or failure to meet other requirements does not adversely affect the operation of the program. Participants have no right to seek an exception under this provision. The Deputy Administrator's refusal to consider cases or circumstances or decision not to exercise the discretionary authority of this provision will not be considered an adverse decision and is not appealable.

§ 760.1302 Definitions and acronyms.

The following definitions apply to this subpart. The definitions in parts 718 and 1400 of this title also apply, except where they may conflict with the definitions in this section.

County office or FSA county office means the FSA offices responsible for administering FSA programs in a specific areas, sometimes encompassing more than one county, in a State.

Dairy operation means any person or group of persons who, as a single unit, as determined by FSA, produce and market milk commercially produced from cows, and whose production facilities are located in the United States. In any case, however, dairy operation may be given by the agency the same meaning as the definition of dairy operation as found in part 1430 of this title for other dairy assistance programs.

Department or USDA means the U. S. Department of Agriculture.

Deputy Administrator means the Deputy Administrator for Farm programs (DAFP), FSA, or a designee.

Eligible production means milk from cows that was produced during February through July 2009, by a dairy producer in the United States and marketed commercially by a producer in a participating State.

Farm Service Agency or FSA means the Farm Service Agency of the USDA.

Fiscal year or FY means the year beginning October 1 and ending the following September 30. The fiscal year will be designated for this subpart by year reference to the calendar year in which it ends. For example, FY 2009 is from October 1, 2008, through September 30, 2009 (inclusive).

Marketed commercially means sold to the market to which the dairy operation normally delivers whole milk and receives a monetary amount and in any case this term will be construed to allow the use of MILC records in making DELAP payments.

Milk handler means the marketing agency to or through which the dairy operation commercially markets whole milk.

Milk marketing means a marketing of milk for which there is a verifiable sales or delivery record of milk marketed for commercial use.

Participating State means each of the 50 States in the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico, or any other territory or possession of the United States.

Payment quantity means the pounds of milk production for which an operation is eligible to be paid under this subpart.

Producer means any individual, group of individuals, partnership, corporation, estate, trust association, cooperative, or other business enterprise or other legal entity, as defined in 7 CFR 1400.3, who is, or whose members are, a citizen of or legal resident alien in the United States, and who directly or indirectly, as determined by the Secretary, shares in the risk of producing milk, and who is entitled to a share of the commercial

production available for marketing from the dairy operation. This term, and other terms in this subpart, will in any case be applied in a way that allows MILC records to be used to make DELAP payments.

United States means the 50 States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

Verifiable production records means evidence that is used to substantiate the amount of production marketed commercially by a dairy operation and its producers and that can be verified by FSA through an independent source.

§ 760.1303 Requesting benefits.

(a) If as a dairy operation or producer, your records are currently available in the FSA county office from previous participation in a fiscal year 2009 dairy program administered by FSA, you do not need to request benefits under this subpart to receive payments. FSA will make payments as specified in this subpart to eligible dairy producers based on production data maintained by the FSA county office for the months of February through July 2009.

(b) If records are not available in the FSA county office, dairy producers may request benefits. The request for benefits may be a letter or email; no specific form is required.

(1) Submit your request for DELAP to: Deputy Administrator for Farm Programs, FSA, USDA, STOP 0512, 1400 Independence Avenue, SW., Washington, DC 20250–0512; Attention: DELAP Program. Or you may send your request for DELAP via fax to (202) 690–1536 or e-mail to *Danielle.Cooke@wdc.usda.gov.*

(2) The complete request as described in this subpart must be received by FSA by the close of business on January 19, 2010.

(3) The complete request for benefits must include all of the following:

(i) The name and location of the dairy operation;

(ii) Contact information for the dairy operation, including telephone number;

(iii) Name, percentage share, and tax identification number for the entity or individual producer's receiving a share of the payment; and

(iv) Proof of production (acceptable documentation as specified in § 760.1305).

(4) Requests for benefits and related documents not provided to FSA as required by this subpart, will not be approved.

(5) If not already provided and available to FSA, the dairy producer or dairy operation must provide documentation to support:

(i) The amount (quantity in pounds) of milk produced by the dairy operation during the months of February 2009 through July 2009;

(ii) Percentage share of milk production during February through July 2009 attributed to each producer in the dairy operation; and

(iii) Average adjusted gross income for each individual or entity with a share in the operation and any additional entities or individuals as needed to apply the adjusted gross income rules of these regulations.

(6) Each dairy producer requesting benefits under this subpart is responsible for providing accurate and truthful information and any supporting documentation. If the dairy operation provides the required information, each dairy producer who shares in the risk of a dairy operation's total production is responsible for the accuracy and truthfulness of the information submitted for the request for benefits before the request will be considered complete. Providing a false statement, request, or certification to the Government may be punishable by imprisonment, fines, other penalties, or sanctions.

(c) All information provided by the dairy producer or dairy operation is subject to verification, spot check, and audit by FSA. Further verification information may be obtained from the dairy operation's milk handler or marketing cooperative if necessary for FSA to verify provided information. Refusal to allow FSA or any other USDA agency to verify any information provided or the inability of FSA to verify such information will result in a determination of ineligibility for benefits under this subpart.

(d) Data furnished by dairy producers and dairy operations, subject to verification, will be used to determine eligibility for program benefits. Although participation in the DELAP program is voluntary, program benefits will not be provided unless a producer or operation furnishes all requested data or such data is already recorded at the FSA county office.

§ 760.1304 Eligibility.

(a) Payment under DELAP will only be made to producers, but the dairy ''operation'' must first qualify its production within limits provided for in this subpart in order to have the individuals or entities that qualify as ''producers'' receive payment subject to whatever additional limits (such as the adjusted gross income provisions of these regulations) apply. As needed the agency may construe the terms of this regulation in any manner needed to facilitate and expedite payments using existing data and records from other assistance programs. Further, those parties (State and local governments and their political subdivisions and related agencies) excluded from the MILC program will not be eligible for DELAP payments notwithstanding any other provision of these regulation. That said, to be eligible to receive payments under this subpart, a dairy producer in the United States must:

(1) Have produced milk in the United States and commercially marketed the milk produced any time during February 2009 through July 2009;

(2) Be a producer, as defined in § 760.1302;

(3) Provide FSA with proof of milk production commercially marketed by all dairy producers in the dairy operation during February 2009 through July 2009; and

(4) Submit an accurate and complete request for benefits as specified in § 760.1303, if production data is not available in the FSA county office.

(b) To be eligible to receive a payment, each producer in an eligible dairy operation must meet the average adjusted gross income eligibility requirements of 7 CFR part 1400. No person or entity will be eligible to receive any payment or direct or indirect benefit under this subpart if their annual average adjusted nonfarm income is over $500,000 as determined under 7 CFR part 1400. In the case of indirect benefits, direct benefits to other parties will be reduced accordingly. This will mean that all of the attribution rules of part 1400 will apply. For example if Individual A is over the limit and owns 100 percent of Corporation C which had a 20 percent interest in Corporation B which had a 50 percent interest in milk producer Corporation A, the AGI of Individual A would result in a 10 percent (100 percent times 20 percent times 50 percent) loss in benefits to Corporation A. For DELAP, the relevant period for the annual average adjusted nonfarm income is 2005 through 2007.

(1) Individual dairy producers in a dairy operation that is an entity are only eligible for a payment based on their share of the dairy operation.

(2) No payment will be made to any other producer based on the share of any dairy producer who exceeds the income limit or who, because of the attribution rules, has their payment reduced.

§ 760.1305 Proof of production.

(a) Dairy producers requesting benefits must, as required by this subpart, provide adequate proof of the dairy operation's eligible production during the months of February through July 2009, if those records are not already available at the FSA county office. The dairy operation must also provide proof that the eligible production was also commercially marketed during the same period.

(b) To be eligible for payment, dairy producers marketing milk during February through July 2009 must provide any required supporting documents to assist FSA in verifying production. Supporting documentation may be provided by either the dairy producer or by the dairy operation for each of its producers. Examples of supporting documentation may include, but are not limited to: Milk marketing payment stubs, tank records, milk handler records, daily milk marketings, copies of any payments received as compensation from other sources, or any other documents available to confirm the production and production history of the dairy operation. Dairy operations and producers may also be required to allow FSA to examine the herd of cattle as production evidence. If supporting documentation requested is not presented to FSA, the request for benefits will be denied.

§ 760.1306 Availability of funds.

(a) Payments under this subpart are subject to the availability of funds. The total available program funds are $290,000,000.

(b) FSA will prorate the available funds by a national factor to ensure payments do not exceed $290,000,000. The payment will be made based on the national payment rate as determined by FSA. FSA will prorate the payments based on the amount of milk production eligible for payments in a fair and reasonable manner.

(c) A reserve will be created to handle new applications, appeals, and errors.

§ 760.1307 Dairy operation payment quantity.

(a) A dairy operation's payment quantity (the quantity of milk on which the ''operation'' can generate payments for ''producers'' involved in the operation) will be determined by FSA, based on the pounds of production of commercially marketed milk during the months of February 2009 through July 2009, multiplied by two.

(b) The maximum payment quantity for which a dairy operation can generate payments for its dairy producers under this subpart will be 6,000,000 pounds.

(c) The dairy operation's payment quantity will be used to determine the amount of DELAP payments made to dairy producers.

§ 760.1308 Payment rate.

(a) A national per-hundredweight payment rate will be calculated by dividing the available funding, less a reserve established by FSA, by the total pounds of eligible production approved for payment.

(b) Each eligible dairy producer's payment with respect to an operation will be calculated by multiplying the payment rate determined in paragraph (a) of this section by the dairy producer's share in the dairy operation's eligible production payment quantity as determined in accordance with section § 760.1307.

(c) In the event that approval of all eligible requests for benefits would result in expenditures in excess of the amount available, FSA will reduce the payment rate in a manner that FSA determines to be fair and reasonable.

§ 760.1309 Appeals.

The appeal regulations set forth at 7 CFR parts 11 and 780 apply to determinations made under this subpart.

§ 760.1310 Misrepresentation and scheme or device.

(a) In addition to other penalties, sanctions or remedies as may apply, a dairy producer or operation will be ineligible to receive benefits under this subpart if the producer or operation is determined by FSA to have:

(1) Adopted any scheme or device that tends to defeat the purpose of this subpart;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

(b) Any payment to any person or operation engaged in a misrepresentation, scheme, or device, must be refunded with interest together with such other sums as may become due. Any dairy operation or person engaged in acts prohibited by this section and receiving payment under this subpart will be jointly and severally liable with other producers or operations involved in such claim for benefits for any refund due under this section and for related charges. The remedies provided in this subpart will be in addition to other civil, criminal, or administrative remedies that may apply.

§ 760.1311 Death, incompetence, or disappearance.

(a) In the case of the death, incompetency, or disappearance of a person or the dissolution of an entity that is eligible to receive benefits in accordance with this subpart, such alternate person or persons specified in 7 CFR part 707 may receive such benefits, as determined appropriate by FSA.

(b) Payments may be made to an otherwise eligible dairy producer who is now deceased or to a dissolved entity if a representative who currently has authority to enter into an application for the producer or the producer's estate makes the request for benefits as specified in § 760.1303. Proof of authority over the deceased producer's estate or a dissolved entity must be provided.

(c) If a dairy producer is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must be identified in the request for benefits.

§ 760.1312 Maintaining records.

(a) Persons requesting benefits under this subpart must maintain records and accounts to document all eligibility requirements specified in this subpart. Such records and accounts must be retained for 3 years after the date of payment to the dairy producer under this subpart.

(b) Destruction of the records after 3 years from the date of payment will be at the decision and risk of the party undertaking the destruction.

§ 760.1313 Refunds; joint and several liability.

(a) Any dairy producer that receives excess payment, payment as the result of erroneous information provided by any person, or payment resulting from a failure to comply with any requirement or condition for payment under this subpart, must refund the amount of that payment to FSA.

(b) Any refund required will be due from the date of the disbursement by the agency with interest determined in accordance with paragraph (d) of this section and late payment charges as provided in 7 CFR part 1403.

(c) Each dairy producer that has an interest in the dairy operation will be jointly and severally liable for any refund and related charges found to be due to FSA.

(d) Interest will be applicable to any refunds to FSA required in accordance with 7 CFR parts 792 and 1403. Such interest will be charged at the rate that the U.S. Department of the Treasury charges FSA for funds, and will accrue from the date FSA made the payment to the date the refund is repaid.

(e) FSA may waive the accrual of interest if it determines that the cause of the erroneous payment was not due to any action of the person or entity, or was beyond the control of the person or entity committing the violation. Any waiver is at the discretion of FSA alone.

§ 760.1314 Miscellaneous provisions.

(a) *Offset.* FSA may offset or withhold any amount due to FSA from any benefit provided under this subpart in accordance with the provisions of 7 CFR part 1403.

(b) *Claims.* Claims or debts will be settled in accordance with the provisions of 7 CFR part 1403.

(c) *Other interests.* Payments or any portion thereof due under this subpart will be made without regard to questions of title under State law and without regard to any claim or lien against the milk production, or proceeds thereof, in favor of the owner or any other creditor except agencies and instrumentalities of the U.S. Government.

(d) *Assignments.* Any dairy producer entitled to any payment under this part may assign any payments in accordance with the provisions of 7 CFR part 1404.

(e) *Violations of highly erodible land and wetland conservation provisions.* The provisions of part 12 of this title apply to this subpart. That part sets out certain conservation requirements as a general condition for farm benefits.

(f) *Violations regarding controlled substances.* The provisions of § 718.6 of this title, which generally limit program payment eligibility for persons who have engaged in certain offenses with respect to controlled substances, will apply to this subpart.

Signed in Washington, DC, on December 16, 2009.

Jonathan W. Coppess,

Administrator, Farm Service Agency.

[FR Doc. E9–30264 Filed 12–17–09; 11:15 am]

BILLING CODE 3410–05–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 567

Regulatory Capital Requirements

CFR Correction

In Title 12 of the Code of Federal Regulations, Parts 500 to 599, revised as of January 1, 2009, on page 330, in § 567.3, remove the second paragraph (d)(1).

[FR Doc. E9–30377 Filed 12–18–09; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 925

Members of the Banks

CFR Correction

In Title 12 of the Code of Federal Regulations, Part 900 to End, revised as of January 1, 2009, on page 88, in § 925.4, in paragraph (c)(2), revise the reference ''§ 925.25(b)(4)(i)'' to read ''§ 925.24(b)(4)(i)''.

[FR Doc. E9–30374 Filed 12–18–09; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0457; Airspace Docket No. 09–AAL–10]

Establishment of Class E Airspace; Point (Pt.) Thomson, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This action establishes Class E airspace at Pt. Thomson, AK, to accommodate new Area Navigation (RNAV) special Instrument Approach Procedures (IAPs) at Pt. Thomson #3 Heliport. The FAA is taking this action to enhance safety and management of Instrument Flight Rules (IFR) operations at Pt. Thomson #3 Heliport.

DATES: Effective 0901 UTC, February 11, 2009. The Director of the **Federal Register** approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/alaskan/rulemaking/.*

SUPPLEMENTARY INFORMATION:

History

On Wednesday, October 7, 2009, the FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** to establish Class E airspace at Pt. Thompson, AK (74 FR 51523). Subsequent to publication, the FAA noted that the title erroneously referred to the airport name incorrectly. The correct airport name is Pt. Thomson #3 (without a P). Additionally, the airport coordinates were incorrectly listed and have been corrected in the legal description. With the exception of editorial changes, and the changes described above, this rule is the same as that proposed in the NPRM. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. The rule with changes noted above is adopted as proposed.

The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace at Pt. Thomson #3 Heliport, to accommodate new RNAV special IAPs at Pt. Thomson #2 Heliport. This Class E airspace will provide adequate controlled airspace upward from 700 feet above the surface, for the safety and management of IFR operations at Pt. Thomson #3 Heliport.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Pt. Thomson #3 Heliport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71— DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, is amended as follows:

Paragraph 6005 Class E Airspace Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AAL AK E5 Point Thomson, AK [New]

Point Thomson #3 Heliport, AK
(Lat. 70°10′17″ N., long. 146°15′31″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Pt. Thomson, AK.

* * * * *

Issued in Anchorage, AK, on December 3, 2009.

Michael A. Tarr,

Acting Manager, Alaska Flight Services Information Area Group.

[FR Doc. E9–30172 Filed 12–18–09; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

[Release No. 33–9087; File No. S7–23–09]

RIN 3235–AK44

Extension of Filing Accommodation for Static Pool Information in Filings With Respect to Asset-Backed Securities

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting an amendment to Rule 312 of Regulation S–T to extend its application for one year. Rule 312 provides a temporary filing accommodation for filings with respect to asset-backed securities that allows static pool information required to be disclosed in a prospectus to be provided on an Internet Web site under certain conditions. Under the rule, such information is deemed to be included in the prospectus included in the registration statement for the asset-backed securities. As a result of the extension, the rule will apply to filings with respect to asset-backed securities filed on or before December 31, 2010.

DATES: *Effective Date:* This amendment is effective December 31, 2009.

FOR FURTHER INFORMATION CONTACT: John Harrington, Attorney-Adviser, Division of Corporation Finance, at (202) 551–3430, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–3628.

SUPPLEMENTARY INFORMATION: We are adopting an amendment to Rule 312 [1] of Regulation S–T.[2]

I. Background and Discussion of the Amendment

In December, 2004, we adopted new and amended rules and forms to address the registration, disclosure and reporting requirements for asset-backed securities (''ABS'') under the Securities Act of 1933 [3] (the ''Securities Act'') and the Securities Exchange Act of 1934 [4] (the ''Exchange Act'').[5] As part of this rulemaking, we adopted Regulation AB,[6] a new principles-based set of disclosure items forming the basis for disclosure with respect to ABS in both Securities Act registration statements and Exchange Act reports. Compliance with the revised rules was phased in; full compliance with the revised rules became effective January 1, 2006. One of the significant features of Regulation AB is Item 1105, which requires, to the extent material, static pool information to be provided in the prospectus included in registration statements for ABS offerings.[7] While the disclosure required by Item 1105 depends on factors such as the type of underlying asset and materiality, the information required to be disclosed can be extensive. For example, a registrant may be required to disclose multiple performance metrics in periodic increments for prior securitized pools of the sponsor for the same asset type in the last five years.[8]

As described in the 2004 Adopting Release, in response to the Commission's proposal to require material static pool information in prospectuses for ABS offerings, many commenters representing both ABS issuers and investors requested flexibility in the presentation of such information. In particular, commenters noted that the required static pool information could include a significant amount of statistical information that would be difficult to file electronically on EDGAR as it existed at that time and difficult for investors to use in that format. Commenters accordingly requested the flexibility for ABS issuers to provide static pool information on an Internet Web site rather than as part of an EDGAR filing.[9] In response to these comments, we adopted Rule 312 of Regulation S–T, which permits, but does not require, the posting of the static pool information required by Item 1105 on an Internet Web site under the

[1] 17 CFR 232.312.

[2] 17 CFR 232.10 *et seq.*

[3] 15 U.S.C. 77a *et seq.*

[4] 15 U.S.C. 78a *et seq.*

[5] *See Asset-Backed Securities,* Release No. 33–8518 (December 22, 2004) [70 FR 1506] (adopting release related to Regulation AB and other new rules and forms related to asset-backed securities) (hereinafter, the ''2004 Adopting Release'').

[6] 17 CFR 229.1100 *et seq.*

[7] *See* Form S–1 and Form S–3 under the Securities Act. Static pool information indicates how groups, or static pools, of assets, such as those originated at different intervals, are performing over time. By presenting comparisons between originations at similar points in the assets' lives, the data allows the detection of patterns that may not be evident from overall portfolio numbers and thus may reveal a more informative picture of material elements of portfolio performance and risk.

[8] 17 CFR 229.1105.

[9] *See* 2004 Adopting Release, Section III.B.4.b.

conditions set forth in the rule.[10] We recognized at the time that a Web-based approach might allow for the provision of the required information in a more efficient, dynamic and useful format than was currently feasible on the EDGAR system. At the same time, we explained that we continued to believe at some point for future transactions the information should also be submitted with the Commission in some fashion, provided investors continue to receive the information in the form they have requested. Accordingly, we adopted Rule 312 as a temporary filing accommodation applicable to filings filed on or before December 31, 2009.[11] We explained that we were directing our staff to consult with the EDGAR contractor, EDGAR filing agents, issuers, investors and other market participants to consider how static pool information could be filed with the Commission in a cost-effective manner without undue burden or expense that still allows issuers to provide the information in a desirable format. We also noted, however, that it might be necessary, among other things, to extend the accommodation.[12]

In October 2009, we published for public comment [13] a proposed amendment to extend the temporary filing accommodation set forth in Rule 312 of Regulation S–T for one year so that it would apply to filings with respect to ABS filed on or before December 31, 2010.

We received three comment letters that addressed the proposed extension.[14] Two commenters expressed support for the Rule 312 filing accommodation and the proposed extension.[15] The ASF cited the strong preference among both its issuer and investor members for Web-based presentation of static pool information due to its efficiency, utility and effectiveness and the current lack of an adequate filing alternative.[16] The ABA Committees expressed their belief that the accommodation has been highly successful and of great value to investors.[17] Neither the ASF nor the ABA Committees was aware of any difficulties that investors or other market participants had locating, accessing, viewing or analyzing static pool information disclosed on a Web site.[18] For these reasons, among others, both the ASF and the ABA Committees requested that the filing accommodation be made permanent or, in the alternative, extended for a longer period of time.[19] One commenter, in contrast, did not support the extension and suggested the Commission should require structured disclosure using an industry standard computer language.[20]

We are adopting as proposed a one-year extension to the temporary filing accommodation provided by Rule 312. Based on the staff's experience since Rule 312 became effective in 2006, the vast majority of residential mortgage-backed security issuers and a significant portion of ABS issuers in other asset classes have relied on the accommodation provided by the rule to disclose static pool information on an Internet Web site. Furthermore, we believe that it remains the case that it could be difficult to file the information electronically on EDGAR as it exists today and difficult for investors to use in that format.

During the extension, the existing requirements of Rule 312 will continue to apply. Pursuant to these requirements, the registrant must disclose its intention to provide static pool information through a Web site in the prospectus included in the registration statement at the time of effectiveness and provide the specific Internet address where the static pool information is posted in the prospectus filed pursuant to Rule 424.[21] The registrant must maintain such information on the Web site unrestricted and free of charge for a period of not less than five years, indicate the date of any updates or changes to the information, undertake to provide any person without charge, upon request, a copy of the information as of the date of the prospectus if a subsequent update or change is made to the information and retain all versions of the information provided on the Web site for a period of not less than five years in a form that permits delivery to an investor or the Commission. In addition, the registration statement for the ABS must contain an undertaking pursuant to Item 512(l) of Regulation S–K [22] that the information provided on the Web site pursuant to Rule 312 is deemed to be part of the prospectus included in the registration statement.[23]

As we noted in the Proposing Release, since the adoption of Rule 312 in December, 2004, technological advances and expanded use of the Internet have enabled the Commission to adopt additional rules incorporating electronic communications. The Commission continues to recognize that, in certain circumstances and under certain conditions, the Internet can present a reliable and cost-effective alternative or supplement to traditional disclosure methods.[24] On the other hand, we are mindful of the benefit of having information filed on the EDGAR system.

As we noted in the Proposing Release, the staff of the Division of Corporation Finance is currently engaged in a broad

[10] 17 CFR 232.312(a). Instead of relying on Rule 312, an issuer can include information required by Item 1105 of Regulation AB physically in the prospectus or, if permitted, through incorporation by reference from an Exchange Act report.

[11] 17 CFR 232.312(a); *see also* 2004 Adopting Release, Section III.B.4.b.

[12] 2004 Adopting Release, Section III.B.4.b.

[13] *Extension of Filing Accommodation for Static Pool Information in Filings With Respect to Asset-Backed Securities,* Release No. 33–9074 (October 19, 2009) [74 FR 54767] (hereinafter, the ''Proposing Release'').

[14] The public comments we received are available online at *http://www.sec.gov/comments/s7-23-09/s72309.shtml.*

[15] *See* letters from the American Securitization Forum (the ''ASF'') and the Committee on Federal Regulation of Securities and the Committee on Securitization and Structured Finance of the Section of Business Law of the American Bar Association (the ''ABA Committees'').

[16] *See* letter from ASF.

[17] *See* letter from ABA Committees.

[18] *See* letters from ASF and ABA Committees.

[19] *Id.* The ASF requested a five-year extension if the rule could not be made permanent and the ABA Committees requested an 18 to 24 month extension in such a case. Both the ASF and the ABA Committees expressed the belief that a permanent or longer extension would encourage continued use of the Web-based presentation by providing more of an incentive for issuers to make investments in developing and innovating Web sites for static pool disclosure. A longer extension would also, the ASF noted, give the Commission adequate time to consider alternatives.

[20] *See* letter from Paul Wilkinson. If the alternate approach supported by Mr. Wilkinson could not be implemented by January 1, 2010, he recommended that any extension only last until the alternate approach could be implemented. As discussed more fully below, the staff of the Division of Corporation Finance is in the process of exploring the feasibility of a filing mechanism for static pool information that would allow the information to be filed with the Commission in an efficient and useful manner.

[21] 17 CFR 230.424.

[22] 17 CFR 229.512(l).

[23] 17 CFR 232.312. As we indicated in the 2004 Adopting Release, if the conditions of Rule 312 are satisfied, then the information will be deemed to be part of the prospectus included in the registration statement and thus subject to all liability provisions applicable to prospectuses and registration statements, including Section 11 of the Securities Act [15 U.S.C. 77k]. 2004 Adopting Release, Section III.B.4.b.

[24] *See, e.g., Internet Availability of Proxy Materials,* Release No. 34–55146 (Jan. 22, 2007) [72 FR 4148] (adopting release for voluntary E-Proxy rules) and *Internet Availability of Proxy Materials,* Release No. 34–52926 (December 8, 2005) [70 FR 74598] (proposing release for voluntary E-Proxy rules). *See also Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies,* Release No. 33–8998, Section III.A.4.c (Jan. 13, 2009) [74 FR 4546] (adopting Item 11(g)(2) of Form N–1A under the Investment Company Act of 1940 [15 U.S.C. 80a–1 *et seq.*] which allows exchange-traded funds to provide premium/discount information on a Web site rather than in a prospectus or annual report) and *Securities Offering Reform,* Release No. 33–8591, Section VI.B.1 (July 19, 2005) [70 FR 44722] (adopting ''access equals delivery'' model for final prospectus delivery).

review of the Commission's regulation of ABS including disclosure, offering process, and reporting of ABS issuers. Along with this review, the staff of the Division of Corporation Finance is continuing to explore whether a filing mechanism for static pool information that fulfills the objectives identified above is feasible. Although we note the two commenters' requests that we make the filing accommodation permanent or extend it for a longer period of time as well as the other commenter's request that we immediately move to provide for structured disclosure using an industry standard computer language, we continue to believe a proposal for a longer-term solution for providing static pool disclosure would be better considered together with other possible proposals to revise the regulations governing the offer and sale of ABS. The one-year extension of Rule 312 that we are adopting today is intended to provide time to enable us to proceed in this manner.

The Administrative Procedure Act generally requires that an agency publish an adopted rule in the **Federal Register** 30 days before it becomes effective. This requirement, however, does not apply if the agency finds good cause for making the rule effective sooner.[25] Because the temporary filing accommodation expires on December 31, 2009, we believe it is necessary to make the amendment effective December 31st so that there is no gap between which an issuer would be required to convert its static pool data into an EDGAR filing. In addition, this extension creates no new requirements but maintains a voluntary accommodation that relieves a registrant from the obligation to file static pool data on EDGAR, provided it makes the information available on a Web site. The Commission therefore believes the extension grants or recognizes an exemption or relieves a restriction. On the basis of the foregoing, the Commission finds good cause to make the amendment effective December 31, 2009.

II. Paperwork Reduction Act

Rule 312 of Regulation S–T was adopted in 2004 along with other new and amended rules and forms to address the registration, disclosure and reporting requirements for ABS under the Securities Act and the Exchange Act. In connection with this prior rulemaking, we submitted a request for approval of the ''collection of information'' requirements contained in the amendments and rules to the Office of Management and Budget (''OMB'') in accordance with the Paperwork Reduction Act of 1995 (''PRA'').[26] OMB approved these requirements.[27]

Item 1105 of Regulation AB [28] requires certain static pool information, to the extent material, to be provided in prospectuses included in registration statements for ABS offerings.[29] Rule 312 is a temporary filing accommodation that permits the posting of the static pool information required by Item 1105 on an Internet Web site under the conditions set forth in the rule.[30] The amendment to Rule 312 extends the existing temporary filing accommodation provided by the rule for one additional year. As is the case today, issuers may choose whether or not to take advantage of the accommodation during the extension. The conditions of Rule 312 remain otherwise unchanged. The disclosure requirements themselves, which are contained in Forms S–1 and S–3 under the Securities Act and require the provision of the information set forth in Item 1105 of Regulation AB, also remain unchanged. Therefore, the amendment will not result in an increase or decrease in the costs and burdens imposed by the ''collection of information'' requirements previously approved by the OMB. No commenter suggested the extension would impose any new paperwork burden.

III. Cost-Benefit Analysis

In this section, we examine the benefits and costs of the amendment. In the Proposing Release, we requested that commenters provide views, supporting information and estimates on the benefits and costs that may result from the adoption of the proposed amendment. No commenter addressed the cost-benefit analysis of the Proposing Release.

A. Benefits

We initially adopted the filing accommodation provided by Rule 312 of Regulation S–T because commenters requested flexibility in the presentation of required static pool information.[31] Given the large amount of statistical information involved, those commenters argued for a Web-based approach that would allow issuers to present the information in an efficient manner and with greater functionality and utility than might be available if an EDGAR filing was required.[32] We believe this greater functionality and utility has enhanced an investor's ability to access and analyze the static pool information and also removed the burden on issuers of duplicating the information in each prospectus as well as easing the burdens of updating such information.[33] As we discussed in the 2004 Adopting Release, since the information is deemed to be part of the prospectus included in the registration statement, the rule is designed to give investors access to accurate and reliable information.[34]

By extending the accommodation provided by Rule 312, these benefits to both issuers and investors will continue to apply. As discussed above, many ABS issuers rely on Rule 312 to provide static pool information on an Internet Web site rather than in an EDGAR filing.[35] We proposed the one-year extension of Rule 312 because we do not believe we can implement an alternative filing mechanism by the end of 2009 that would meet the objectives of both issuers and investors to present static pool information in an efficient, cost-effective form that would provide investors utility and functionality in terms of accessing and analyzing that information. Therefore, if we did not amend Rule 312 to extend its application as we are doing today, static pool information would have been required in EDGAR filings beginning on January 1, 2010. We believe this would have resulted in costs for issuers as they attempt to adjust their procedures in a short period of time in order to present the information in a format acceptable to the EDGAR system and could have resulted in costs to investors if the information filed on EDGAR was presented in a less useful format.

By extending Rule 312, we seek to avoid these potentially negative effects for issuers and investors as we continue to explore the best format in which to require the filing of static pool information. As indicated above, the staff of the Division of Corporation Finance is considering this issue along with other proposals addressing the disclosure, offering process and reporting of ABS issuers.

B. Costs

We do not believe the one-year extension of the Rule 312

[25] *See* 5 U.S.C. 553(d).

[26] 44 U.S.C. 3501 *et seq.*

[27] The collections of information to which Rule 312 of Regulation S–T relates are ''Form S–1'' (OMB Control No. 3235–0065) and ''Form S–3'' (OMB Control No. 3235–0073).

[28] 17 CFR 229.1105.

[29] *See* Form S–1 and Form S–3 under the Securities Act.

[30] 17 CFR 232.312(a).

[31] *See* 2004 Adopting Release, Section III.B.4.b.

[32] *Id.*

[33] *See* Section I above and 2004 Adopting Release, Section V.D.

[34] *See* 2004 Adopting Release, Section III.B.4.b.

[35] *See* Section I above.

accommodation will impose any new or increased costs on issuers. In the Cost-Benefit Analysis section of the 2004 Adopting Release, we noted that ABS issuers electing the Web-based accommodation provided by Rule 312 would incur costs related to the maintenance and retention of static pool information posted on a Web site and might also incur start-up costs.[36] While it is likely that certain of those costs will continue to impact ABS issuers that elect the Web-based approach during the extension period, we do not believe the amendment will impose any new or increased costs for ABS issuers because it does not change any other conditions to the accommodation or the underlying filing and disclosure obligations. As a result of the extension of the accommodation, ABS issuers will be able to continue their current practices for an additional year.

For investors, there may be costs associated with the static pool information not being electronically filed with the Commission. For example, when information is electronically filed with the Commission, investors and staff can access the information from a single, centralized location, the EDGAR Web site. We think these costs are mitigated by the fact that ABS issuers relying on the Rule 312 accommodation must ensure that the prospectus for the offering contains the Internet Web site address where the static pool information is posted, the Web site must be unrestricted and free of charge, such information must remain on the Internet Web site for five years with any changes clearly indicated and the issuer must undertake to provide the information to any person free of charge, upon request, if a subsequent update or change is made. Furthermore, because the information is deemed included in the prospectus under Rule 312, it is subject to all liability provisions applicable to prospectuses and registration statements.

Investors and issuers may have incurred costs to adjust their processes in anticipation of the lapse of the Rule 312 accommodation and potential reversion to a requirement to file static pool information on EDGAR. In this case, benefits to investors or issuers of not having to change their procedures regarding static pool reporting in a short time frame would be diminished by any costs already incurred in anticipation of the change. We believe such anticipatory action and any associated costs are minimal.

[36] *See* 2004 Adopting Release, Section V.D.

IV. Consideration of Impact on the Economy, Burden on Competition, and Promotion of Efficiency, Competition, and Capital Formation

Section 2(b) of the Securities Act requires us, when engaging in rulemaking where we are required to consider or determine whether an action is necessary or appropriate in the public interest, to also consider whether the action will promote efficiency, competition, and capital formation.

As discussed in greater detail above, Rule 312 of Regulation S–T was adopted as a temporary filing accommodation so that issuers of ABS could present static pool information on an Internet Web site. The amendment to Rule 312 of Regulation S–T that we are adopting today extends its application for one year. We are not changing the conditions of Rule 312 or the disclosure obligations to which it applies. We do not believe that the one-year extension will impose a burden on competition. We also believe the extension of the filing accommodation will continue to promote efficiency and capital formation by permitting ABS issuers to disclose static pool information in a format that is more useful to investors and cost-effective and not unduly burdensome for ABS issuers.

We requested comment on whether the proposed amendment, if adopted, would promote efficiency, competition, and capital formation. We did not receive any comments directly responding to this request.

V. Regulatory Flexibility Analysis Certification

In Part VI of the Proposing Release, the Commission certified pursuant to Section 605(b) of the Regulatory Flexibility Act [37] that the proposed amendment to Rule 312 of Regulation S–T would not have a significant economic impact on a substantial number of small entities. While the Commission encouraged written comments regarding this certification, no commenters responded to this request or indicated that the amendment as adopted would have a significant economic impact on a substantial number of small entities.

VI. Statutory Authority and Text of the Final Amendment

The amendment described is being adopted under the authority set forth in Sections 6, 7, 10, 19 and 28 of the Securities Act of 1933 (15 U.S.C. 77f, 77g, 77j, 77s, and 77z–3).

[37] 5 U.S.C. 605(b).

List of Subjects

17 CFR Part 232

Reporting and recordkeeping requirements, Securities.

Text of the Amendment

■ For the reasons set out in the preamble, the Commission hereby amends title 17, chapter II, of the Code of Federal Regulations as follows:

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 1. The authority citation for part 232 continues to read, in part, as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77z–3, 77sss(a), 78c(b), 78*l,* 78m, 78n, 78o(d), 78w(a), 78*ll,* 80a–6(c), 80a–8, 80a–29, 80a–30, 80a–37, and 7201 *et seq.;* and 18 U.S.C. 1350.

* * * * *

§ 232.312 [Amended]

■ 2. Amend § 232.312 by removing ''December 31, 2009'' and in its place adding ''December 31, 2010'' in the first sentence of paragraph (a).

By the Commission.

Dated: December 15, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–30185 Filed 12–18–09; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

[Docket No. FDA–2009–N–0665]

Implantation or Injectable Dosage Form New Animal Drugs; Polysulfated Glycosaminoglycan

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Luitpold Pharmaceuticals, Inc. The supplemental NADA provides for additional vial sizes for an injectable solution of polysulfated glycosaminoglycan.

DATES: This rule is effective December 21, 2009.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary

Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8337, e-mail: *melanie.berson@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Luitpold Pharmaceuticals, Inc., Animal Health Division, Shirley, NY 11967, filed a supplement to NADA 140–901 for ADEQUAN (polysulfated glycosaminoglycan), an injectable solution approved for use in horses and dogs by veterinary prescription for noninfectious degenerative and/or traumatic joint disease. The supplemental NADA provides for additional vial sizes. The application is approved as of November 10, 2009, and the regulations are amended in 21 CFR 522.1850 to reflect the approval.

Approval of this supplemental NADA did not require review of additional safety or effectiveness data or information. Therefore, a freedom of information summary is not required.

The agency has determined under § 25.33 that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 522

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. In § 522.1850, revise paragraph (a) to read as follows:

§ 522.1850 Polysulfated glycosaminoglycan.

(a) *Specifications.* (1) Each 1-milliliter (mL) ampule of solution contains 250 milligrams (mg) polysulfated glycosaminoglycan.

(2) Each mL of solution packaged in 5-mL ampules or 20-, 30-, or 50-mL vials contains 100 mg polysulfated glycosaminoglycan.

* * * * *

Dated: December 15, 2009.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. E9–30222 Filed 12–18–09; 8:45 am]

BILLING CODE 4160–01–S

POSTAL REGULATORY COMMISSION

39 CFR Part 3020

[Docket Nos. MC2010–9 and CP2010–9; Order No. 344]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is adding Priority Mail Contract 23 to the Competitive Product List. This action is consistent with changes in a recent law governing postal operations. Republication of the lists of market dominant and competitive products is also consistent with new requirements in the law.

DATES: Effective December 21, 2009 and is applicable beginning October 28, 2009.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 or *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION: *Regulatory History*, 74 FR 59015 (November 16, 2009).

I. Introduction

The Postal Service seeks to add a new product identified as Priority Mail Contract 23 to the Competitive Product List. For the reasons discussed below, the Commission approves the Request.

II. Background

Pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service filed a formal request and associated supporting information to add Priority Mail Contract 23 to the Competitive Product List.[1] The Postal Service asserts that Priority Mail Contract 23 is a competitive product ''not of general applicability'' within the meaning of 39 U.S.C. 3632(b)(3). The Postal Service states that prices and classification underlying this contract are supported by Governors' Decision No. 09–06 in Docket No. MC2009–25. *Id.* at 1. The Request has been assigned Docket No. MC2010–9.

The Postal Service contemporaneously filed a contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. The contract has been assigned Docket No. CP2010–9.

In support of its Request, the Postal Service filed the following materials: (1) A redacted version of the Governors' Decision, originally filed in Docket No. MC2010–25, authorizing certain Priority Mail contracts;[2] (2) a redacted version of the contract;[3] (3) a requested change in the Competitive Product List;[4] (4) a Statement of Supporting Justification as required by 39 CFR 3020.32;[5] (5) a certification of compliance with 39 U.S.C. 3633(a);[6] and (6) an application for non-public treatment of the materials filed under seal.[7]

In the Statement of Supporting Justification, Mary Prince Anderson, Manager, Sales and Communications, Expedited Shipping, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.*, Attachment D. Thus, Ms. Anderson contends there will be no issue of subsidization of competitive products by market dominant products as a result of this contract. *Id.*

A redacted version of the specific Priority Mail Contract 23 is included with the Request. The contract will become effective on the day that the Commission provides all necessary regulatory approvals. It is terminable upon 30 days' notice by either party, but could continue for up to one year. The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a). *See id.*, Attachment D. The Postal Service will provide Priority Mail packaging for items mailed by the shipper.

The Postal Service filed much of the supporting materials, including the specific Priority Mail Contract 23, under seal. In its Request, the Postal Service maintains that the contract and related financial information, including the customer's name and the accompanying

[1] Request of the United States Postal Service to Add Priority Mail Contract 23 to Competitive Product List and Notice of Filing (Under Seal) of Contract and Supporting Data, November 5, 2009 (Request).

[2] Attachment A to the Request, reflecting Governors' Decision No. 09–06, April 27, 2009.

[3] Attachment B to the Request.

[4] Attachment C to the Request.

[5] Attachment D to the Request.

[6] Attachment E to the Request.

[7] Attachment F to the Request.

analyses that provide prices, terms, conditions, cost data, and financial projections should remain under seal. *Id.* at 2. It also requests that the Commission order that the duration of such treatment of all customer identifying information be extended indefinitely, instead of ending after 10 years. *Id.,* Attachment F, at 1 and 7.

In Order No. 336, the Commission gave notice of the two dockets, requested supplemental information, appointed a public representative, and provided the public with an opportunity to comment.[8] On November 13, 2009, the Postal Service provided its response to the Commission's request for supplemental information. On November 16, 2009, Chairman's Information Request No. 1 was issued for response by the Postal Service by November 19, 2009. The Postal Service filed its response on November 19, 2009.

III. Comments

Comments were filed by the Public Representative.[9] No comments were submitted by other interested parties. The Public Representative states that the Postal Service's filing meets the pertinent provisions of title 39 and the relevant Commission rules. *Id.* at 1, 3. He further states that the agreement employs pricing terms favorable to the customer, the Postal Service, and thereby, the public. *Id.* at 3. The Public Representative also believes that the Postal Service has provided appropriate justification for maintaining confidentiality in this case. *Id.* at 2–3.

IV. Commission Analysis

The Commission has reviewed the Request, the contract, the financial analysis provided under seal that accompanies it, and the comments filed by the Public Representative.

Statutory requirements. The Commission's statutory responsibilities in this instance entail assigning Priority Mail Contract 23 to either the Market Dominant Product List or to the Competitive Product List. 39 U.S.C. 3642. As part of this responsibility, the Commission also reviews the proposal for compliance with the Postal Accountability and Enhancement Act (PAEA) requirements. This includes, for proposed competitive products, a review of the provisions applicable to rates for competitive products. 39 U.S.C. 3633.

Product list assignment. In determining whether to assign Priority Mail Contract 23 as a product to the Market Dominant Product List or the Competitive Product List, the Commission must consider whether

> the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products.

39 U.S.C. 3642(b)(1). If so, the product will be categorized as market dominant. The competitive category of products consists of all other products.

The Commission is further required to consider the availability and nature of enterprises in the private sector engaged in the delivery of the product, the views of those who use the product, and the likely impact on small business concerns. 39 U.S.C. 3642(b)(3).

The Postal Service asserts that its bargaining position is constrained by the existence of other shippers who can provide similar services, thus precluding it from taking unilateral action to increase prices without the risk of losing volume to private companies. Request, Attachment D, ¶ (d). The Postal Service also contends that it may not decrease quality or output without risking the loss of business to competitors that offer similar expedited delivery services. *Id.* It further states that the contract partner supports the addition of the contract to the Competitive Product List to effectuate the negotiated contractual terms. *Id.,* ¶ (g). Finally, the Postal Service states that the market for expedited delivery services is highly competitive and requires a substantial infrastructure to support a national network. It indicates that large carriers serve this market. Accordingly, the Postal Service states that it is unaware of any small business concerns that could offer comparable service for this customer. *Id.*, ¶ (h).

No commenter opposes the proposed classification of Priority Mail Contract 23 as competitive. Having considered the statutory requirements and the support offered by the Postal Service, the Commission finds that Priority Mail Contract 23 is appropriately classified as a competitive product and should be added to the Competitive Product List.

Cost considerations. The Postal Service presents a financial analysis showing that Priority Mail Contract 23 results in cost savings while ensuring that the contract covers its attributable costs, does not result in subsidization of competitive products by market dominant products, and increases contribution from competitive products.

Based on the data submitted, the Commission finds that Priority Mail Contract 23 should cover its attributable costs (39 U.S.C. 3633(a)(2)), should not lead to the subsidization of competitive products by market dominant products (39 U.S.C. 3633(a)(1)), and should have a positive effect on competitive products' contribution to institutional costs (39 U.S.C. 3633(a)(3)). Thus, an initial review of proposed Priority Mail Contract 23 indicates that it comports with the provisions applicable to rates for competitive products.

Other considerations. The Postal Service indicates that the instant contract supersedes the current contract, approved in Docket Nos. MC2009–2 and CP2009–3, and which was extended at the Postal Service's request.[10] Given that, the Postal Service shall no later than 30 days after the effective date of the new contract, provide cost, revenue and volume data associated with the current contract to be filed in Docket No. MC2009–2 and CP2009–3.

In conclusion, the Commission approves Priority Mail Contract 23 as a new product. The revision to the Competitive Product List is shown below the signature of this Order and is effective upon issuance of this Order.

V. Ordering Paragraphs

It is ordered:

1. Priority Mail Contract 23 (MC2010–9 and CP2010–9) is added to the Competitive Product List as a new product under Negotiated Service Agreements, Domestic.

2. The Postal Service shall notify the Commission if termination occurs prior to the scheduled termination date.

3. The Secretary shall arrange for the publication of this order in the **Federal Register**.

List of Subjects in 39 CFR Part 3020

Administrative practice and procedure; Postal Service.

By the Commission.

Shoshana M. Grove,

Secretary.

■ For the reasons discussed in the preamble, the Postal Regulatory Commission amends chapter III of title

[8] PRC Order No. 336, Notice and Order Concerning Priority Mail Contract 23 Negotiated Service Agreement, November 9, 2009 (Order No. 336).

[9] Public Representative Comments in Response to United States Postal Service Request to Add Priority Mail Contract 23 Negotiated Service Agreement to the Competitive Products List, November 18, 2009 (Public Representative Comments). This filing was accompanied by a Motion of the Public Representative for Late Acceptance of Comments in Response to United States Postal Service Request to Add Priority Mail Contract 23 Negotiated Service Agreement to the Competitive Products List, November 18, 2009. The motion is granted.

[10] Docket Nos. MC2009–2 and CP2009–3, PRC Order No. 332, Order Granting Motion for Temporary Relief, November 5, 2009.

39 of the Code of Federal Regulations as follows:

PART 3020—PRODUCT LISTS

■ 1. The authority citation for part 3020 continues to read as follows:

Authority: 39 U.S.C. 503; 3622; 3631; 3642; 3682.

■ 2. Revise Appendix A to Subpart A of Part 3020—Mail Classification Schedule to read as follows:

Appendix A to Subpart A of Part 3020—Mail Classification Schedule

Part A—Market Dominant Products

1000 Market Dominant Product List
First-Class Mail
- Single-Piece Letters/Postcards
- Bulk Letters/Postcards
- Flats
- Parcels
- Outbound Single-Piece First-Class Mail International
- Inbound Single-Piece First-Class Mail International

Standard Mail (Regular and Nonprofit)
- High Density and Saturation Letters
- High Density and Saturation Flats/Parcels
- Carrier Route
- Letters
- Flats
- Not Flat-Machinables (NFMs)/Parcels

Periodicals
- Within County Periodicals
- Outside County Periodicals

Package Services
- Single-Piece Parcel Post
- Inbound Surface Parcel Post (at UPU rates)
- Bound Printed Matter Flats
- Bound Printed Matter Parcels
- Media Mail/Library Mail

Special Services
- Ancillary Services
- International Ancillary Services
- Address List Services
- Caller Service
- Change-of-Address Credit Card Authentication
- Confirm
- International Reply Coupon Service
- International Business Reply Mail Service
- Money Orders
- Post Office Box Service

Negotiated Service Agreements
- HSBC North America Holdings Inc. Negotiated Service Agreement
- Bookspan Negotiated Service Agreement
- Bank of America Corporation Negotiated Service Agreement
- The Bradford Group Negotiated Service Agreement
- Inbound International
- Canada Post—United States Postal Service Contractual Bilateral Agreement for Inbound Market Dominant Services

Market Dominant Product Descriptions

First-Class Mail
[Reserved for Class Description]
- Single-Piece Letters/Postcards
- [Reserved for Product Description]
- Bulk Letters/Postcards
- [Reserved for Product Description]
- Flats
- [Reserved for Product Description]
- Parcels
- [Reserved for Product Description]
- Outbound Single-Piece First-Class Mail International
- [Reserved for Product Description]
- Inbound Single-Piece First-Class Mail International
- [Reserved for Product Description]

Standard Mail (Regular and Nonprofit)
[Reserved for Class Description]
- High Density and Saturation Letters
- [Reserved for Product Description]
- High Density and Saturation Flats/Parcels
- [Reserved for Product Description]
- Carrier Route
- [Reserved for Product Description]
- Letters
- [Reserved for Product Description]
- Flats
- [Reserved for Product Description]
- Not Flat-Machinables (NFMs)/Parcels
- [Reserved for Product Description]

Periodicals
- [Reserved for Class Description]
- Within County Periodicals
- [Reserved for Product Description]
- Outside County Periodicals
- [Reserved for Product Description]

Package Services
[Reserved for Class Description]
- Single-Piece Parcel Post
- [Reserved for Product Description]
- Inbound Surface Parcel Post (at UPU rates)
- [Reserved for Product Description]
- Bound Printed Matter Flats
- [Reserved for Product Description]
- Bound Printed Matter Parcels
- [Reserved for Product Description]
- Media Mail/Library Mail
- [Reserved for Product Description]

Special Services
[Reserved for Class Description]
- Ancillary Services
- [Reserved for Product Description]
- Address Correction Service
- [Reserved for Product Description]
- Applications and Mailing Permits
- [Reserved for Product Description]
- Business Reply Mail
- [Reserved for Product Description]
- Bulk Parcel Return Service
- [Reserved for Product Description]
- Certified Mail
- [Reserved for Product Description]
- Certificate of Mailing
- [Reserved for Product Description]
- Collect on Delivery
- [Reserved for Product Description]
- Delivery Confirmation
- [Reserved for Product Description]
- Insurance
- [Reserved for Product Description]
- Merchandise Return Service
- [Reserved for Product Description]
- Parcel Airlift (PAL)
- [Reserved for Product Description]
- Registered Mail
- [Reserved for Product Description]
- Return Receipt
- [Reserved for Product Description]
- Return Receipt for Merchandise
- [Reserved for Product Description]
- Restricted Delivery
- [Reserved for Product Description]
- Shipper-Paid Forwarding
- [Reserved for Product Description]
- Signature Confirmation
- [Reserved for Product Description]
- Special Handling
- [Reserved for Product Description]
- Stamped Envelopes
- [Reserved for Product Description]
- Stamped Cards
- [Reserved for Product Description]
- Premium Stamped Stationery
- [Reserved for Product Description]
- Premium Stamped Cards
- [Reserved for Product Description]
- International Ancillary Services
- [Reserved for Product Description]
- International Certificate of Mailing
- [Reserved for Product Description]
- International Registered Mail
- [Reserved for Product Description]
- International Return Receipt
- [Reserved for Product Description]
- International Restricted Delivery
- [Reserved for Product Description]
- Address List Services
- [Reserved for Product Description]
- Caller Service
- [Reserved for Product Description]
- Change-of-Address Credit Card Authentication
- [Reserved for Product Description]
- Confirm
- [Reserved for Product Description]
- International Reply Coupon Service
- [Reserved for Product Description]
- International Business Reply Mail Service
- [Reserved for Product Description]
- Money Orders
- [Reserved for Product Description]
- Post Office Box Service
- [Reserved for Product Description]

Negotiated Service Agreements
[Reserved for Class Description]
- HSBC North America Holdings Inc. Negotiated Service Agreement
- [Reserved for Product Description]
- Bookspan Negotiated Service Agreement
- [Reserved for Product Description]
- Bank of America Corporation Negotiated Service Agreement
- The Bradford Group Negotiated Service Agreement

Part B—Competitive Products

2000 Competitive Product List
Express Mail
- Express Mail
- Outbound International Expedited Services
- Inbound International Expedited Services
- Inbound International Expedited Services 1 (CP2008–7)
- Inbound International Expedited Services 2 (MC2009–10 and CP2009–12)

Priority Mail
- Priority Mail
- Outbound Priority Mail International
- Inbound Air Parcel Post
- Royal Mail Group Inbound Air Parcel Post Agreement

Parcel Select
Parcel Return Service
International
- International Priority Airlift (IPA)
- International Surface Airlift (ISAL)
- International Direct Sacks—M-Bags
- Global Customized Shipping Services
- Inbound Surface Parcel Post (at non-UPU rates)

Canada Post—United States Postal service Contractual Bilateral Agreement for Inbound Competitive Services (MC2009–8 and CP2009–9)
International Money Transfer Service
International Ancillary Services
Special Services
Premium Forwarding Service
Negotiated Service Agreements
Domestic
Express Mail Contract 1 (MC2008–5)
Express Mail Contract 2 (MC2009–3 and CP2009–4)
Express Mail Contract 3 (MC2009–15 and CP2009–21)
Express Mail Contract 4 (MC2009–34 and CP2009–45)
Express Mail Contract 5 (MC2010–5 and CP2010–5)
Express Mail & Priority Mail Contract 1 (MC2009–6 and CP2009–7)
Express Mail & Priority Mail Contract 2 (MC2009–12 and CP2009–14)
Express Mail & Priority Mail Contract 3 (MC2009–13 and CP2009–17)
Express Mail & Priority Mail Contract 4 (MC2009–17 and CP2009–24)
Express Mail & Priority Mail Contract 5 (MC2009–18 and CP2009–25)
Express Mail & Priority Mail Contract 6 (MC2009–31 and CP2009–42)
Express Mail & Priority Mail Contract 7 (MC2009–32 and CP2009–43)
Express Mail & Priority Mail Contract 8 (MC2009–33 and CP2009–44)
Parcel Select & Parcel Return Service Contract 1 (MC2009–11 and CP2009–13)
Parcel Select & Parcel Return Service Contract 2 (MC2009–40 and CP2009–61)
Parcel Return Service Contract 1 (MC2009–1 and CP2009–2)
Priority Mail Contract 1 (MC2008–8 and CP2008–26)
Priority Mail Contract 2 (MC2009–2 and CP2009–3)
Priority Mail Contract 3 (MC2009–4 and CP2009–5)
Priority Mail Contract 4 (MC2009–5 and CP2009–6)
Priority Mail Contract 5 (MC2009–21 and CP2009–26)
Priority Mail Contract 6 (MC2009–25 and CP2009–30)
Priority Mail Contract 7 (MC2009–25 and CP2009–31)
Priority Mail Contract 8 (MC2009–25 and CP2009–32)
Priority Mail Contract 9 (MC2009–25 and CP2009–33)
Priority Mail Contract 10 (MC2009–25 and CP2009–34)
Priority Mail Contract 11 (MC2009–27 and CP2009–37)
Priority Mail Contract 12 (MC2009–28 and CP2009–38)
Priority Mail Contract 13 (MC2009–29 and CP2009–39)
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Competitive Product Descriptions
Express Mail
[Reserved for Group Description]
Express Mail
[Reserved for Product Description]
Outbound International Expedited Services
[Reserved for Product Description]
Inbound International Expedited Services
[Reserved for Product Description]
Priority
[Reserved for Product Description]
Priority Mail
[Reserved for Product Description]
Outbound Priority Mail International
[Reserved for Product Description]
Inbound Air Parcel Post
[Reserved for Product Description]
Parcel Select
[Reserved for Group Description]
Parcel Return Service
[Reserved for Group Description]
International
[Reserved for Group Description]
International Priority Airlift (IPA)
[Reserved for Product Description]
International Surface Airlift (ISAL)
[Reserved for Product Description]
International Direct Sacks—M-Bags
[Reserved for Product Description]
Global Customized Shipping Services
[Reserved for Product Description]
International Money Transfer Service
[Reserved for Product Description]
Inbound Surface Parcel Post (at non-UPU rates)
[Reserved for Product Description]
International Ancillary Services
[Reserved for Product Description]
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[FR Doc. E9–30230 Filed 12–18–09; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2008–0379; FRL–8982–4]

Approval and Promulgation of Maintenance Plan for Carbon Monoxide; State of Arizona; Tucson Air Planning Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Clean Air Act, EPA is approving two revisions to the Arizona State Implementation Plan. These revisions include the 2008 Revision to the Carbon Monoxide Limited Maintenance Plan for the Tucson Air Planning Area, submitted on July 10, 2008, and a statutory provision, submitted on June 22, 2009, that extends the life of the State's vehicle emissions inspection program through the end of 2016. EPA is taking this action pursuant to those provisions of the Clean Air Act that obligate the Agency to take action on submittals of revisions to state implementation plans. The effect of this action is to make certain commitments related to maintenance of the carbon monoxide standard in the Tucson Air Planning Area Federally enforceable as part of the Arizona State Implementation Plan.

DATES: *Effective Date:* This rule is effective on January 20, 2010.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2008–0379 for this action. The index to the docket is

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

FOR FURTHER INFORMATION CONTACT: Marty Robin, Air Planning Office (AIR–2), EPA Region IX, (415) 972–3961, *robin.marty@epa.gov*.

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

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I. Proposed Action

On August 5, 2009 (74 FR 39007), EPA proposed to approve, under the Clean Air Act (CAA or ''Act''), two revisions to the Arizona State Implementation Plan (SIP) submitted by the Arizona Department of Environmental Quality (ADEQ). First, we proposed to approve *the 2008 Revision to the Carbon Monoxide Limited Maintenance Plan for the Tucson Air Planning Area* (for 2010) (''2008 CO Maintenance Plan''), submitted by ADEQ on July 10, 2008. Second, we proposed to approve a statutory provision that was submitted by ADEQ on June 22, 2009 that extends the life of the State's vehicle emissions inspection (VEI) program through the end of 2016.

We proposed approval of the 2008 CO Maintenance Plan because we concluded that it includes an acceptable update of the various elements of the initial EPA-approved 1996 CO Maintenance Plan for the Tucson Air Planning Area (TAPA) (including emissions inventory, assurance of adequate monitoring and verification of continued attainment, and contingency provisions), and essentially carries forward all of the control measures and contingency provisions relied upon in the earlier plan.

We also concluded that the TAPA, a former nonclassifiable CO nonattainment area, continues to qualify for the Limited Maintenance Plan (LMP) option and that therefore the 2008 CO Maintenance Plan adequately demonstrates maintenance of the CO NAAQS through documentation of monitoring data showing maximum CO levels less than 85% of the NAAQS and continuation of existing control measures. We believed the 2008 CO Maintenance Plan to be sufficient to provide for maintenance of the CO NAAQS in the TAPA over the second 10-year maintenance period and to thereby satisfy the requirements for such a plan under CAA section 175A(b). Based on our finding that the 2008 CO Maintenance Plan qualifies as an LMP, we proposed to approve the 2008 CO Maintenance Plan for transportation conformity purposes.

In connection with the 2008 CO Maintenance Plan, we proposed to approve a statutory provision, Arizona Revised Statutes (ARS) section 41–3017.01, that extends the life of the State's VEI program (applicable to the TAPA and Phoenix metropolitan areas) until the end of 2016, and that was submitted to EPA as a revision to the Arizona SIP on June 22, 2009, based on our expectation that the Arizona Legislature will extend the VEI program beyond 2016. The VEI program is one of the control measures relied upon by the 2008 CO Maintenance Plan.

Please refer to our August 5, 2009 proposed rule for more information on our evaluation and decision.

II. Public Comment

EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. Final Action

Under sections 110(k) and 175A of the CAA and for the reasons set forth above and in our proposed rule, EPA is approving two revisions of the Arizona SIP submitted by ADEQ. The first, submitted on July 10, 2008, includes the 2008 CO Maintenance Plan for the Tucson Air Planning Area, and the second, submitted on June 22, 2009, includes a statutory provision (ARS section 41–3017.01) extending the life of the VEI program through the end of 2016. Our approval makes the commitments in the maintenance plan, such as the commitment to continue to maintain a monitoring network in accordance with EPA requirements and to implement the contingency provisions, federally enforceable.

We are also approving the 2008 CO Maintenance Plan as an LMP, and under our LMP policy, such an approval means that the Pima Association of Governments (PAG), the Federal Highway Administration, and the Federal Transit Administration will not be required to satisfy the regional emissions analysis for CO under 40 CFR 93.118 and/or 40 CFR 93.119 in determining conformity of transportation plans and programs in the Tucson Air Planning Area.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

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

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249,

November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 14, 2009.

Laura Yoshii,

Acting Regional Administrator, Region IX.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart D—Arizona

■ 2. Section 52.120 is amended by adding paragraphs (c)(143) and (c)(144) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(143) The 2008 Revision to the Carbon Monoxide Limited Maintenance Plan for the Tucson Air Planning Area (for 2010), adopted by the Pima Association of Governments on June 26, 2008, and adopted and submitted by the Arizona Department of Environmental Quality on July 10, 2008, excluding appendix D.

(144) Appendix D (Revised) (''Letter from Arizona Department of Environmental Quality re: Vehicle Emissions Inspection Program (VEIP), Revised to include supporting documents authorizing the VEIP from 2009 to 2017 (Chapter 171, Senate Bill 1531 from the 48th Regular Session of the Arizona Legislature and Arizona Revised Statute text A.R.S. 41–3017.01''), adopted as a Supplement to the Carbon Monoxide Limited Maintenance Plan for the Tucson Air Planning Area (for 2010) by the Pima Association of Governments on May 28, 2009, and adopted and submitted by the Arizona Department of Environmental Quality on June 22, 2009.

[FR Doc. E9–30134 Filed 12–18–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2009–0818; FRL–9087–3]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the South Coast Air Quality Management District portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from the application of adhesives and sealants, cleaning and degassing of storage tanks and pipelines, and coating operations of metal containers, closures, and coils. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on February 19, 2010 without further notice, unless EPA receives adverse comments by January 20, 2010. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number [EPA–R09–OAR–2009–0818], by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.

2. *E-mail: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or e-mail. *http://www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Nicole Law, EPA Region IX, (415) 947–4126, *law.nicole@epa.gov.*

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

Table of Contents

I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board.

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SCAQMD	1125	Metal Container, Closure, and Coil Coating Operations	03/07/08	04/06/09
SCAQMD	1149	Storage Tank and Pipeline Cleaning and Degassing	05/02/08	04/06/09
SCAQMD	1168	Adhesive and Sealant Applications	01/07/05	04/29/09

On May 13, 2009 and July 20, 2009, EPA determined that the submittals for SCAQMD Rules 1125 and 1149 and SCAQMD Rule 1168 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there Other Versions of these Rules?

We approved earlier versions of Rule 1125, Rule 1149, and Rule 1168 into the SIP on June 13, 1995(60 FR 31081), August 19, 1999(64 FR 45175), and December 12, 2003(68 FR 69320).

C. What is the Purpose of the Submitted Rules or Rule Revisions?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. Rule 1125 lowers a VOC limit, Rule 1149 expands the rule to include pipelines and Rule 1168 adjusts a few VOC limits. EPA's technical support document (TSD) has more information about these rules.

II. EPA's Evaluation and Action

A. How is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (*see* section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (*see* sections 182(a)(2) and (b)(2)), and must not relax existing requirements (*see* sections 110(l) and 193). The South Coast Air Quality Management District regulates an ozone nonattainment area (*see* 40 CFR part 81), so Rule 1125, Rule 1149, and Rule 1168 must fulfill RACT.

Guidance and policy documents that we use to evaluate enforceability and RACT requirements consistently include the following:

1. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook).
2. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).
3. ''Control of Volatile Organic Emissions From Existing Stationary Sources Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks'' EPA–450/2–77–008, May 1977.
4. ''Control Techniques Guidelines for Miscellaneous Industrial Adhesives'' EPA–453/R–08–005, September 2008.
5. ''Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Adhesives and Sealants'' CARB, December 1998.

B. Do the Rules Meet the Evaluation Criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSDs have more information on our evaluation.

C. EPA Recommendations To Further Improve the Rules

The TSDs describe additional rule revisions that we recommend for the next time the local agency modifies the rules.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by January 20, 2010, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on February 19, 2010. This will incorporate these rules into the Federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

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

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 19, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (*see* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: October 23, 2009.

Jane Diamond,

Acting Regional Administrator, Region IX.

■ Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(362) (i)(B)and (c)(366)(i)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(362) * * *

(i) * * *

(B) South Coast Air Quality Management District.

(*1*) Rule 1168, ''Adhesive and Sealant Applications,'' amended on January 7, 2005.

* * * * *

(366) * * *

(i) * * *

(B) South Coast Air Quality Management District.

(*1*) Rule 1125, ''Metal Container, Closure, and Coil Coating Operations,'' amended on March 7, 2008.

(*2*) Rule 1149, ''Storage Tank and Pipeline Cleaning and Degassing,'' amended on May 2, 2008.

* * * * *

[FR Doc. E9–30152 Filed 12–18–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0691; FRL–8800–6]

2–propenoic acid, butyl ester, polymer with ethenylbenzene, methyl 2–methyl–2–propenoate and 2–propenoic acid; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of 2–propenoic acid, butyl ester, polymer with ethenylbenzene, methyl 2–methyl–2–propenoate and 2–propenoic acid CAS Reg. No. 27306–39–4; when used as an inert ingredient in a pesticide chemical formulation. BASF Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of 2–propenoic acid, butyl ester, polymer with ethenylbenzene, methyl 2–methyl–2–propenoate and 2–propenoic acid on food or feed commodities.

DATES: This regulation is effective December 21, 2009. Objections and requests for hearings must be received on or before February 19, 2010, 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–2009–0691. 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: Lisa Austin, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460–0001; telephone number: (703) 305–7894; e-mail address: *austin.lisa@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

You may access a frequently updated electronic version of 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. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2009–0691 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before February 19, 2010.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2009–0691, by one of the following methods.

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

II. Background and Statutory Findings

In the **Federal Register** of October 7, 2009 (74 FR 51597) (FRL–8792–7), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP # 9E7608) filed by BASF Corporation, 100 Campus Drive, Florham Park, NJ 07932. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of 2–propenoic acid, butyl ester, polymer with ethenylbenzene, methyl 2–methyl–2–propenoate and 2–propenoic acid; CAS Reg. No. 27306–39–4. That notice included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any comments.

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

III. Risk Assessment and Statutory Findings

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

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low–risk polymers are described in 40 CFR 723.250(d). 2–propenoic acid, butyl ester, polymer with ethenylbenzene,

methyl 2–methyl–2–propenoate and 2–propenoic acid conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low–risk polymers.

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

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

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

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

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

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

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

7. The polymer's number average MW of 1,900 daltons is greater than 1,000 and less than 10,000 daltons. The polymer contains less than 10% oligomeric material below MW 500 and less than 25% oligomeric material below MW 1,000, and the polymer does not contain any reactive functional groups.

Thus, 2–propenoic acid, butyl ester, polymer with ethenylbenzene, methyl 2–methyl–2–propenoate and 2–propenoic acid meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to 2–propenoic acid, butyl ester, polymer with ethenylbenzene, methyl 2–methyl–2–propenoate and 2–propenoic acid.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that 2–propenoic acid, butyl ester, polymer with ethenylbenzene, methyl 2–methyl–2–propenoate and 2–propenoic acid could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of 2–propenoic acid, butyl ester, polymer with ethenylbenzene, methyl 2–methyl–2–propenoate and 2–propenoic acid is 1,900 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since 2–propenoic acid, butyl ester, polymer with ethenylbenzene, methyl 2–methyl–2–propenoate and 2–propenoic acid conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects

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

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

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

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of 2–propenoic acid, butyl ester, polymer with ethenylbenzene, methyl 2–methyl–2–propenoate and 2–propenoic acid.

VIII. Other Considerations

A. Endocrine Disruptors

EPA is required under the FFDCA, as amended by FQPA, to develop a screening program to determine whether certain substances (including all pesticide active and other ingredients) ''may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or other such endocrine effects as the Administrator may designate.'' Following recommendations of its Endocrine Disruptor and Testing Advisory Committee (EDSTAC), EPA determined that there was a scientific basis for including, as part of the program, the androgen and thyroid hormone systems, in addition to the estrogen hormone system. EPA also adopted EDSTAC's recommendation that the Program include evaluations of potential effects in wildlife. For pesticide chemicals, EPA will use FIFRA and, to the extent that effects in wildlife may help determine whether a substance may have an effect in humans, FFDCA authority to require the wildlife evaluations. As the science develops and resources allow, screening of additional hormone systems may be added to the Endocrine Disruptor Screening Program (EDSP).

When additional appropriate screening and/or testing protocols being considered under the Agency's EDSP have been developed, 2–propenoic acid, butyl ester, polymer with ethenylbenzene, methyl 2–methyl–2–propenoate and 2–propenoic acid may be subjected to further screening and/or testing to better characterize effects related to endocrine disruption.

B. Analytical Enforcement Methodology

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

C. International Tolerances

The Agency is not aware of any country requiring a tolerance for 2–

propenoic acid, butyl ester, polymer with ethenylbenzene, methyl 2–methyl–2–propenoate and 2–propenoic acid nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

IX. Conclusion

Accordingly, EPA finds that exempting residues of 2–propenoic acid, butyl ester, polymer with ethenylbenzene, methyl 2–methyl–2–propenoate and 2–propenoic acid from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these rules from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

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

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

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

XI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: December 7, 2009.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

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

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

Polymer	CAS No.
* * * * *	
2–propenoic acid, butyl ester, polymer with ethenylbenzene, methyl 2–methyl–2–propenoate and 2–propenoic acid (in amu), 1900.	27306–39–4
* * * * *	

[FR Doc. E9–30190 Filed 12–18–09; 8:45 am]
BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–2582; MB Docket No. 09–124; RM–11547]

Television Broadcasting Services; Columbus, OH

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants a petition for rulemaking filed by WSYX Licensee, LLC, the licensee of station WSYX(TV), channel 13, Columbus, Ohio, requesting the substitution of channel 48 for channel 13 at Columbus.

DATES: This rule is effective December 21, 2009.

FOR FURTHER INFORMATION CONTACT: David J. Brown, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 09–124, adopted December 8, 2009, and released December 11, 2009. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *http://www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Ohio, is amended by adding DTV channel 48 and removing DTV channel 13 at Columbus.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E9–30284 Filed 12–18–09; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–2580; MB Docket No. 09–178; RM–11571]

Television Broadcasting Services; Cincinnati, OH

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants a petition for rulemaking filed by Scripps Howard Broadcasting Company, the licensee of WCPO–TV, channel 10, Cincinnati, Ohio, requesting the substitution of channel 22 for channel 10 at Cincinnati, Ohio.

DATES: This rule is effective December 21, 2009.

FOR FURTHER INFORMATION CONTACT: Adrienne Y. Denysyk, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 09–178, adopted December 8, 2009, and released December 10, 2009. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *http://www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Ohio, is amended by adding channel 22 and removing channel 10 at Cincinnati.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E9–30293 Filed 12–18–09; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 74, No. 243
Monday, December 21, 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–2009–1185; Directorate Identifier 2009–NE–24–AD]

RIN 2120–AA64

Airworthiness Directives; Honeywell International LTS101–600A Series and LTS101–700D–2 Turboshaft Engines and LTP101–600A–1A, and LTP101–700A–1A Turboprop 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 Honeywell International LTS101–600A series and LTS101–700D–2 turboshaft engines and LTP101–600A–1A, and LTP101–700A–1A turboprop engines with power turbine blades, part number (P/N) 4–141–084–06, installed. This proposed AD would require removing power turbine blades, P/N 4–141–084–06 from service, using a drawdown schedule specified in this proposed AD. This proposed AD results from reports of fatigue cracks in the airfoil of the power turbine blade. We are proposing this AD to prevent fracture of the power turbine blade airfoil, which could result in sudden loss of engine power.

DATES: We must receive any comments on this proposed AD by February 19, 2010.

ADDRESSES: Use one of the following addresses to comment on this proposed AD.

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

Contact Honeywell International Inc., P.O. Box 52181, Phoenix, AZ 85072–2181; telephone (800) 601–3099 (U.S.A.) or (602) 365–3099 (International); or go to: *https://portal.honeywell.com/wps/portal/aero,* for a copy of the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Robert Baitoo, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; *e-mail: robert.baitoo@faa.gov;* telephone (562) 627–5245; fax (562) 627–5210.

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–2009–1185; Directorate Identifier 2009–NE–24–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the AD Docket

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

Discussion

We have received reports of two power turbine blades, P/N 4–141–084–06, that had fractures at the mid span of the airfoil. Honeywell's analysis of the fractured blades and field returned blades identified a manufacturing processing issue, with some blades, which may result in crack development between the platinum core pins and the blade material. This condition, if not corrected, could result in fracture of the power turbine blade airfoil, which could result in sudden loss of engine power.

Differences Between the Proposed AD and the Manufacturer's Service Information

Honeywell International Inc. Service Bulletin (SB) LT 101–71–00–0252, dated December 12, 2008, describes procedures and a drawdown schedule for removing power turbine rotors, P/Ns 4–141–290–01, –03, –05, –06, –11, –12, –13, and –14. This proposed AD would limit the actions to removing power turbine blades, P/N 4–141–084–06, from service using the same drawdown schedule specified in the SB for the power turbine rotors.

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 removing power turbine blades, P/N 4–141–084–06, from service using a specific drawdown schedule.

Costs of Compliance

We estimate that this proposed AD would affect 25 engines installed on aircraft of U.S. registry. We also estimate that it would take about 30 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 $70,000 per engine. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $1,810,000.

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:

Honeywell International Inc. (Formerly AlliedSignal, Textron Lycoming): Docket No. FAA–2009–1185; Directorate Identifier 2009–NE–24–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by February 19, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Honeywell International LTS101–600A–2, –3, –3A, and LTS101–700D–2 turboshaft engines; and LTP101–600A–1A and LTP101–700A–1A turboprop engines with power turbine blades, part number (P/N) 4–141–084–06, installed. These engines are installed on, but not limited to, Eurocopter AS350 series helicopters and Page Thrush, Air Tractor AT–302, and Pacific Aero 08–600 airplanes.

Unsafe Condition

(d) This AD results from reports of fatigue cracks in the airfoil of the power turbine blade. We are issuing this AD to prevent fracture of the power turbine blade airfoil, which could result in sudden loss of engine power.

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.

(f) For engines with power turbine rotors, P/Ns 4–141–290–11, –12, –13, and –14, marked with ''ORI T41881,'' on the aft hub in the vicinity of the P/N, no further action is required.

Removing Power Turbine Blades, P/N 4–141–084–06

(g) Remove power turbine blades, P/N 4–141–084–06, using the cycles specified in Table 1 of this AD:

TABLE 1—DRAWDOWN TIMES FOR POWER TURBINE BLADES, P/N 4–141–084–06

If power turbine rotor time on the effective date of this AD is * * *	Then remove the blades from the power turbine rotor * * *
(1) Fewer than 5,000 cycles-since-new (CSN)	Before exceeding 5,500 CSN.
(2) 5,000 to 7,499 CSN	Within 500 cycles-in-service (CIS) after the effective date of this AD or before exceeding 8,000 CSN, whichever occurs first.
(3) 7,500 to 9,999 CSN	Within 100 CIS after the effective date of this AD or before exceeding 10,050 CSN, whichever occurs first.
(4) 10,000 or more CSN	Within 50 CIS after the effective date of this AD.

Alternative Methods of Compliance

(h) The Manager, Los Angles 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

(i) Contact Robert Baitoo, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; e-mail: *robert.baitoo@faa.gov;* telephone (562) 627–5245; fax (562) 627–5210, for more information about this AD.

(j) Honeywell International Inc. Service Bulletin LT 101–71–00–0252, dated December 12, 2008, pertains to the subject of this AD. Contact Honeywell International Inc., P.O. Box 52181, Phoenix, AZ 85072–2181; telephone (800) 601–3099 (U.S.A.) or (602) 365–3099 (International); or go to: *https://portal.honeywell.com/wps/portal/aero,* for a copy of this service information.

Issued in Burlington, MA, on December 11, 2009.

Peter A. White,

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

[FR Doc. E9–30220 Filed 12–18–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0883; Directorate Identifier 97–ANE–08]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT8D–209, –217, –217C, and –219 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to revise an existing airworthiness directive (AD) for Pratt & Whitney JT8D–209, –217, –217C, and –219 turbofan engines with front compressor front hub (fan hub), part number (P/N) 5000501–01 installed. That AD currently requires cleaning the front compressor front hubs (fan hubs), initial and repetitive eddy current (ECI) and fluorescent penetrant inspections (FPI) of tierod and counterweight holes for cracks, removal of bushings, cleaning and ECI and FPI of bushed holes for cracks and, if necessary, replacement with serviceable parts. In addition, that AD currently requires reporting the findings of cracked fan hubs and monthly reports of the number of inspections completed. This proposed AD would require the same actions, except for the monthly reporting of the number of completed inspections. This proposed AD results from the FAA determining that it has collected a sufficient amount of data since issuing AD 97–17–04 and that therefore, it no longer needs the monthly reporting of the number of completed inspections. We are proposing this AD revision to prevent fan hub failure due to tierod, counterweight, or bushed hole cracking, which could result in an uncontained engine failure and damage to the airplane.

DATES: We must receive any comments on this proposed AD by February 19, 2010.

ADDRESSES: Use one of the following addresses to comment on this proposed AD.

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

FOR FURTHER INFORMATION CONTACT: Kevin Dickert, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *alan.strom@faa.gov;* telephone (781) 238–7117; fax (781) 238–7199.

Contact Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–8770; fax (860) 565–4503, for the service information referenced in this proposed AD.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2009–0883; Directorate Identifier 97–ANE–08'' 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

The FAA proposes to amend 14 CFR part 39 by revising AD 97–17–04, Amendment 39–10106 (62 FR 45152, August 26, 1997). That AD requires cleaning of front compressor front hubs (fan hubs), initial and repetitive ECI and FPI of tierod and counterweight holes for cracks, removal of bushings, the cleaning and ECI and FPI of bushed holes for cracks, and, if necessary, replacement with serviceable parts. In addition, that AD requires reporting the findings of cracked fan hubs and monthly reporting of the number of inspections performed.

Since AD 97–17–04 was issued, we have collected sufficient data on inspections and determined that we do not need further monthly reports of inspections performed.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information, and we are proposing this AD, which would revise AD 97–17–04 to eliminate the monthly requirement to report the number of completed inspections back to the FAA. All other requirements contained in AD 97–17–04 would still be maintained.

Cost of Compliance

We estimate that this proposed AD revision would affect 1,170 JT8D–209, –217, –217C, and –219 turbofan engines installed on airplanes of U.S. registry. We estimate that it would take four work-hours per engine to complete one inspection of the fan hub at piece-part exposure. The average labor rate is $80 per work-hour. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $374,400.

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. *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.

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 removing Amendment 39–10106 (62 FR 45152, August 26, 1997) and by adding a new airworthiness directive to read as follows:

Pratt & Whitney: Docket No. FAA–2009–0883; Directorate Identifier 97–ANE–08.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by February 19, 2010.

Affected ADs

(b) This AD revises AD 97–17–04, Amendment 39–10106.

Applicability

(c) This AD applies to Pratt & Whitney (PW) JT8D–209, –217, –217C, and –219 turbofan engines with front compressor front hub (fan hub), part number (P/N) 5000501–01, installed. These engines are installed on, but not limited to, McDonnell Douglas MD–80 series airplanes.

Unsafe Condition

(d) This AD results from the FAA determining that it has collected a sufficient amount of data since issuing AD 97–17–04 and that therefore, it no longer needs the monthly reporting of the number of completed inspections. We are issuing this AD to prevent fan hub failure due to tierod, counterweight, or bushed hole cracking, which could result in an uncontained engine failure 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.

(f) Inspect fan hubs for cracks in accordance with the Accomplishment Instructions, Paragraph A, Part 1, and, if applicable, Paragraph B, of PW Alert Service Bulletin (ASB) No. A6272, dated September 24, 1996, as follows:

(1) For fan hubs identified by serial numbers (S/Ns) in Table 2 of this AD, after the fan hub has accumulated more than 4,000 cycles-since-new (CSN), as follows:

(i) Initially inspect within 315 cycles-in-service (CIS) from the effective date of this AD, or 4,315 CSN, whichever occurs later.

(ii) Thereafter, re-inspect after accumulating 2,500 CIS since last inspection, but not to exceed 10,000 CIS since last inspection.

(2) For fan hubs identified by S/Ns in Appendix A of PW ASB No. A6272, dated September 24, 1996, after the fan hub has accumulated more than 4,000 CSN, as follows:

(i) Select an initial inspection interval from Table 1 of this AD, and inspect accordingly.

TABLE 1—INSPECTIONS

Initial inspection	Re-inspection
(A) Within 1,050 CIS after the effective date of AD 97–02–11, March 5, 1997, or prior to accumulating 5,050 CSN, whichever occurs later;	After accumulating 2,500 CIS since-last-inspection, but not to exceed 6,000 CIS since-last-inspection.
OR	OR
(B) Within 990 CIS after the effective date of AD 97–02–11, March 5, 1997, or prior to accumulating 4,990 CSN, whichever occurs later;	After accumulating 2,500 CIS since-last-inspection, but not to exceed 8,000 CIS since-last-inspection.
OR	OR
(C) Within 965 CIS after the effective date of AD 97–02–11, March 5, 1997, or prior to accumulating 4,965 CSN, whichever occurs later.	After accumulating 2,500 CIS since-last-inspection, but not to exceed 10,000 CIS since-last-inspection.

TABLE 2—HUBS WITH TRAVELER NOTATIONS

M67663	M67802	P66880	S25545	P66747	R33099	S25292
M67671	M67812	P66885	S25558	P66756	R33107	S25299
M67675	M67826	R32732	S25564	P66800	R33113	S25301
M67681	M67829	R32733	S25598	P66814	R33124	S25302
M67685	M67830	R32735	S25618	P66819	R33131	S25308
M67686	M67831	R32740	S25621	P66831	R33132	S25312
M67687	M67832	R32741	S25637	R32767	R33133	S25316
M67697	M67834	R32810	S25640	R32787	R33136	S25323
M67700	M67843	R32849	T50693	R32792	R33152	S25334
M67706	M67849	R32850	T50752	R32795	R33157	S25335
M67710	M67858	S25222	T50785	R32796	R33163	S25337
M67712	M67866	S25464	T50791	R32800	R33165	S25344
M67713	M67868	S25481	T50792	R32807	R33168	S25369
M67714	M67869	S25483	T50819	R32856	R33171	S25377

TABLE 2—HUBS WITH TRAVELER NOTATIONS—Continued

M67715	M67872	S25484	T50823	R32860	R33173	S25378
M67716	M67888	S25486	T50827	R32870	R33180	S25381
M67717	N71771	S25488	T50874	R32883	R33181	S25394
M67722	N71804	S25489	T50875	R32905	R33189	S25399
M67723	N71806	S25490	T51058	R32926	R33194	S25402
M67725	N71810	S25491	T51104	R32930	R33198	S25406
M67726	N71811	S25492	.....	R32952	R33201	S25411
M67730	N71875	S25494	.....	R32964	R33202	S25413
M67731	N71876	S25495	.....	R32966	R33207	S25414
M67746	N71921	S25497	.....	R32971	S25193	S25415
M67751	N71965	S25498	.....	R32976	S25195	S25418
M67753	N72062	S25499	.....	R32981	S25207	S25419
M67764	N72126	S25500	.....	R32990	S25208	S25421
M67765	N72152	S25501	.....	R32994	S25221	S25422
M67784	N72162	S25502	.....	R33000	S25229	S25430
M67791	N72207	S25505	.....	R33004	S25238	S25437
M67792	N72216	S25506	.....	R33040	S25246	S25439
M67793	N72219	S25507	.....	R33055	S25248	S25449
M67794	N72242	S25508	.....	R33059	S25250	R33186
M67795	P66693	S25509	.....	R33077	S25256	S25528
M67796	P66695	S25514	.....	R33080	S25262	.....
M67797	P66696	S25529	.....	R33082	S25268	.....
M67798	P66698	S25532	.....	R33086	S25278	.....
M67799	P66699	S25541	.....	R33087	S25287	.....
M67800	P66737	S25543	.....	R33089	S25288	.....
M67801	P66753	S25544	.....	R33090	.....	.....

(ii) Thereafter, re-inspect at intervals that correspond to the selected inspection interval.

(3) If a fan hub is identified in both Table 2 of this AD and Appendix A of PW ASB No. A6272, dated September 24, 1996, inspect in accordance with paragraph (f)(1) or (f)(2) of this AD, whichever occurs first.

(4) For fan hubs with S/Ns not listed in Table 2 of this AD or in Appendix A of PW ASB No. A6272, dated September 24, 1996, after the fan hub has accumulated more than 4,000 CSN, inspect the next time the fan hub is in the shop at piece-part level, but not to exceed 10,000 CIS after March 5, 1997.

(5) Prior to further flight, remove from service fan hubs found cracked or that exceed the bushed hole acceptance criteria described in PW ASB No. A6272, dated September 24, 1996.

Reporting Requirements

(g) Report findings of cracked fan hubs using Accomplishment Instructions, Paragraph F, of Attachment 1 to PW ASB No. A6272, dated September 24, 1996, within 48 hours to Kevin Dickert, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7117; fax (781) 238–7199; *e-mail: Kevin.Dickert@faa.gov.*

(h) The Office of Management and Budget (OMB) has approved the reporting requirements and assigned OMB control number 2120–0056.

Alternative Methods of Compliance

(i) The Manager, Engine Certification Office, FAA, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Material Incorporated by Reference

(j) You must use the Pratt & Whitney service information specified in Table 3 of this AD to perform the inspections required by this AD. The Director of the Federal Register previously approved the incorporation by reference of the documents listed in the following Table 3 as of March 5, 1997 (62 FR 4902) in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–8770; fax (860) 565–4503, for a copy of this service information. 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.*

TABLE 3—INCORPORATION BY REFERENCE

Service information	Page	Revision	Date
Alert Service Bulletin No. A6272 ..... Total Pages: 21	All	Original	September 24, 1996.
Non-Destruct Inspection Procedure No. NDIP–892 ..... Total Pages: 30	All	A	September 15, 1996.
Attachment I Total Pages: 4	All	A	September 15, 1996.

Issued in Burlington, Massachusetts, on December 10, 2009.

Peter A. White,

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

[FR Doc. E9–30221 Filed 12–18–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–1353; Directorate Identifier 2008–NE–46–AD]

RIN 2120–AA64

Airworthiness Directives; CFM International, S.A. CFM56–5B1/P, –5B2/P, –5B3/P, –5B3/P1, –5B4/P, –5B5/P, –5B6/P, –5B7/P, –5B8/P, –5B9/P, –5B1/2P, –5B2/2P, –5B3/2P, –5B3/2P1, –5B4/2P, –5B4/P1, –5B6/2P, –5B4/2P1, and –5B9/2P Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) for CFM International, S.A. CFM56–5B series turbofan engines. That AD currently requires reviewing exhaust gas temperature (EGT) monitoring records to determine EGT margin deterioration, and for airplanes where both engines have greater than 80 °centigrade (C) of EGT margin deterioration, borescope-inspecting the high-pressure compressor (HPC) of both engines. That AD also currently requires removing from service any engine that does not pass the borescope inspection and, if both engines pass, removing and replacing one of the engines with an engine that has 80 °C or less of EGT margin deterioration. That AD also currently requires continuous monitoring of EGT margin deterioration on engines in service to prevent two engines on an airplane from having greater than 80 °C of EGT margin deterioration. This proposed AD would require continuous monitoring of EGT margin deterioration, removing FADEC software version 5.B.Q and earlier versions from the engine as mandatory terminating action to the repetitive recalculating and EGT monitoring for certain engine models, and removing other certain engine models from service if the EGT margin deterioration is greater than 75 °C. This proposed AD results from the need to reduce the affected engine models listed in AD 2009–01–01 from 25 to 19, the need to reduce the engine EGT margin deterioration removal threshold from greater than 80 °C to greater than 75 °C, the need to mandate a terminating action to the repetitive recalculating and EGT monitoring for certain engines, and the need to remove certain engines from service if the EGT margin deterioration is greater than 75 °C. We are proposing this AD to prevent HPC stalls, which could prevent continued safe flight or landing.

DATES: We must receive any comments on this proposed AD by February 19, 2010.

ADDRESSES: Use one of the following addresses to comment on this proposed AD.

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

FOR FURTHER INFORMATION CONTACT: James Rosa, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; *e-mail: james.rosa@faa.gov;* telephone (781) 238–7152; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2008–1353; Directorate Identifier 2008–NE–46–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

The FAA proposes to amend 14 CFR part 39 by superseding AD 2009–01–01, Amendment 39–15779 (73 FR 80296, December 31, 2008). That AD requires reviewing EGT monitoring records to determine EGT margin deterioration, and, for airplanes where both engines have greater than 80 °C of EGT margin deterioration, borescope-inspecting the HPC of both engines. That AD also currently requires removing from service any engine that does not pass the borescope inspection, and if both engines pass, removing and replacing one of the engines with an engine that has 80 °C or less EGT margin deterioration. That AD also currently requires continuous monitoring of EGT margin deterioration on engines in service, to prevent two engines on an airplane from having greater than 80 °C of EGT margin deterioration. That AD was the result of an Airbus A321 airplane powered by CFM56–5B1/P turbofan engines with severe HPC deterioration, that stalled during climb out after takeoff. That condition, if not corrected, could result in HPC stalls, which could prevent continued safe flight or landing.

Actions Since AD 2009–01–01 Was Issued

Since AD 2009–01–01 was issued, we determined that engine models CFM56–5B1, –5B2, –5B4, –5B5, –5B6, and –5B7, which were listed in that AD, are not affected by the unsafe condition. Also, CFM International, S.A. has released a FADEC software version that addresses the HPC stall problem for certain engine models. We also determined that we

need to reduce the engine EGT margin deterioration removal threshold from greater than 80 °C to greater than 75 °C. Reducing this removal threshold will provide additional margin to assure that an engine stall will not occur. Also, we have determined the need to require a mandatory terminating action to the repetitive EGT monitoring required by that AD and this proposed AD, for CFM56–5B1/P, –5B2/P, –5B3/P, –5B3/P1, –5B4/P, –5B5/P, –5B6/P, –5B7/P, –5B8/P, –5B9/P, and –5B4/P1 turbofan engines. Also, we have determined the need to remove CFM56–5B1/2P, –5B2/2P, –5B3/2P, –5B3/2P1, –5B4/2P, –5B4/2P1, –5B6/2P and –5B9/2P turbofan engines from service if the EGT margin deterioration is greater than 75 °C.

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. For that reason, we are proposing this AD, for CFM International, S.A. CFM56–5B1/P, –5B2/P, –5B3/P, –5B3/P1, –5B4/P, –5B4/P1, –5B5/P, –5B6/P, –5B7/P, –5B8/P, and –5B9/P turbofan engines with FADEC software version 5.B.Q. or any earlier version installed, to require the following:

- On the effective date of this proposed AD, and at any time after the effective date of the proposed AD, you are to monitor and calculate EGT margin deterioration; and
- As mandatory terminating action to the repetitive recalculating and monitoring of EGT margin deterioration, you are to remove FADEC software version 5.B.Q and earlier versions from certain engines that have greater than 75 °C of EGT margin deterioration within 150 additional cycles-in-service (CIS); and
- As mandatory terminating action to the repetitive recalculating and monitoring of EGT margin deterioration, you are to remove FADEC software version 5.B.Q and earlier versions from certain engines that have less than or equal to 75 °C of EGT margin deterioration within 900 additional CIS.

We are also proposing this AD, for CFM International, S.A. CFM56–5B1/2P, –5B2/2P, –5B3/2P, –5B3/2P1, –5B4/2P, –5B4/2P1, –5B6/2P, and –5B9/2P turbofan engines to require the following:

- On the effective date of this proposed AD, and at any time after the effective date of this proposed AD, you are to monitor and calculate EGT margin deterioration; and
- You are to remove engines from service that have greater than 75 °C of EGT margin deterioration within 150 additional CIS.

We are also proposing this AD to remove engine models CFM56–5B1, –5B2, –5B4, –5B5, –5B6, and –5B7 from the applicability.

Costs of Compliance

We estimate that this proposed AD would affect 397 engines installed on airplanes of U.S. registry. We also estimate that it would take about one work-hour to install FADEC software. The average labor rate is $80 per work-hour. There are no required parts costs. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $31,760.

Interim Actions

These actions are interim actions and we anticipate further rulemaking actions in the future, including further action to address the remaining engines in service that are above 75 °C of EGT margin deterioration.

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. *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, 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 removing Amendment 39–15779 (73 FR 80296, December 31, 2008) and by adding a new airworthiness directive to read as follows:

CFM International, S.A.: Docket No. FAA–2008–1353; Directorate Identifier 2008–NE–46–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by February 19, 2010.

Affected ADs

(b) This AD supersedes AD 2009–01–01, Amendment 39–15779.

Applicability

(c) This AD applies to CFM International, S.A. CFM56–5B1/P, –5B2/P, –5B3/P, –5B3/P1, –5B4/P, –5B5/P, –5B6/P, –5B7/P, –5B8/P, –5B9/P, –5B1/2P, –5B2/2P, –5B3/2P, –5B3/2P1, –5B4/2P, –5B4/P1, –5B6/2P, –5B4/2P1, and –5B9/2P turbofan engines. These engines are installed on, but not limited to, Airbus A318, A319, A320, and A321 series airplanes.

Unsafe Condition

(d) This AD results from the need to reduce the affected engine models listed in AD 2009–01–01 from 25 to 19, the need to reduce the engine EGT margin deterioration removal threshold from greater than 80 °C to greater than 75 °C, the need to mandate a terminating action to the repetitive recalculating and EGT monitoring for certain engines, and the need to remove certain engines from service if the EGT margin

deterioration is greater than 75 °C. We are issuing this AD to prevent high-pressure compressor stalls, which could prevent continued safe flight or landing.

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.

(f) On the effective date of this AD, and at any time after the effective date of this AD, for CFM International, S.A. CFM56–5B1/P, –5B2/P, –5B3/P, –5B3/P1, –5B4/P, –5B4/P1, –5B5/P, –5B6/P, –5B7/P, –5B8/P and –5B9/P turbofan engines:

(1) Monitor and calculate engine EGT margin deterioration. Guidance on calculating EGT margin deterioration can be found in CFM International, S.A. Alert Service Bulletin no. CFM56–5B S/B 72–A0722, Revision 1, dated March 20, 2009.

(2) As mandatory terminating action to the repetitive recalculating and monitoring of EGT margin deterioration, remove FADEC software version 5.B.Q and earlier versions from engines that have greater than 75 °C of EGT margin deterioration within 150 additional cycles-in-service (CIS).

(3) As mandatory terminating action to the repetitive recalculating and monitoring of EGT margin deterioration, remove FADEC software version 5.B.Q and earlier versions from engines that have less than or equal to 75 °C of EGT margin deterioration within 900 additional CIS.

(g) On the effective date of this AD, and at any time after the effective date of this AD, for CFM International, S.A. CFM56–5B1/2P, –5B2/2P, –5B3/2P, –5B3/2P1, –5B4/2P, –5B4/2P1, –5B6/2P and –5B9/2P turbofan engines:

(1) Monitor and calculate engine EGT margin deterioration.

(2) Remove engines from service that have greater than 75 °C of EGT margin deterioration within 150 additional CIS. Do not install an engine that has greater than 75 °C of EGT margin deterioration.

Installation Prohibition

(h) After the effective date of this AD, do not install FADEC software version 5.B.Q or any earlier software versions to any of the engines affected by this AD.

Interim Actions

(i) These actions are interim actions and we anticipate further rulemaking actions in the future, including further action to address the remaining engines in service that are above 75 °C deterioration of EGT margin.

Alternative Methods of Compliance (AMOCs)

(j) 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

(k) Refer to European Aviation Safety Agency Airworthiness Directive 2009–0088, Revision 1, dated April 28, 2009, CFM International, S.A. Service Bulletin No. CFM56–5B S/B 73–0229, Revision 1, dated February 26, 2009, and CFM International, S. A. Service Bulletin No. CFM56–5B S/B 72–0722, Revision 1, dated March 20, 2009, for related information.

(l) Contact CFM International, S.A., Technical Customer Support, 1 Neumann Way, Cincinnati, OH 45215; telephone (513) 552–3272; fax (513) 552–3329, for a copy of the service information referenced in this AD.

(m) Contact James Rosa, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; *e-mail: james.rosa@faa.gov;* telephone (781) 238–7152; fax (781) 238–7199, for more information about this AD.

Issued in Burlington, Massachusetts on December 10, 2009.

Peter A. White,

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

[FR Doc. E9–30219 Filed 12–18–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–1101; Airspace Docket No. 09–ANM–24]

Proposed Modification of Class E Airspace; West Yellowstone, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace at Yellowstone Airport, West Yellowstone, MT, to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Yellowstone Airport, West Yellowstone, MT. The FAA is proposing this action to enhance the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before February 4, 2010.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, 20590. Telephone (202) 366–9826. You must identify FAA Docket No. FAA–2009–1101; Airspace Docket No. 09–ANM–24, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue, SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA 2009–1101 and Airspace Docket No. 09–ANM–24) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2009–1101 and Airspace Docket No. 09–ANM–24''. The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (*see* the **ADDRESSES** section for the address and

phone number) between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue, SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to modify Class E airspace at Yellowstone Airport, West Yellowstone, MT. Additional controlled airspace extending upward from 700 feet or more above the surface is necessary to accommodate aircraft using the new RNAV (GPS) SIAPs at Yellowstone Airport. This action would enhance the safety and management of IFR operations at the airport.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9T, signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation; (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish additional controlled airspace at Yellowstone Airport, West Yellowstone, MT.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the FAA Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009 is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM MT E5 West Yellowstone, MT

West Yellowstone, Yellowstone Airport, MT (Lat. 44°41′18″ N., long. 111°07′04″ W.)

That airspace extending upward from 700 feet above the surface within 4.3 miles west and 8.3 miles east of the 026° and 206° bearings from Yellowstone Airport extending from 8.3 miles northeast to 23.3 miles southwest of Yellowstone Airport; that airspace extending upward from 1,200 feet above the surface within 4.3 miles each side of the 209° bearing from lat. 44°34′32″ N., long. 111°11′51″ W., extending to 36.2 miles southwest of the airport, and within 5 miles north and 4.3 miles south of the 304° bearing from lat. 44°34′32″ N., long. 111°11′51″ W. extending to the east edge of V–343; that airspace extending upward from 10,700 feet MSL within a 25.3-mile radius of lat. 44°34′32″ N., long. 111°11′51″ W. extending clockwise from the 081° bearing from lat. 44°34′32″ N., long. 111°11′51″ W. to 4.3 miles east of the 236° bearing from lat. 44°34′32″ N., long. 111°11′51″ W., and within 4.3 miles each side of the 236° bearing from lat. 44°34′32″ N., long. 111°11′51″ W., extending to 43.5 miles southwest of the airport; that airspace extending upward from 10,700 feet MSL within 9 miles south and 5 miles north of the 304° bearing from lat. 44°34′32″ N., long. 111°11′51″ W., extending to the east edge of V–343; that airspace extending upward from 12,000 feet MSL within a 30.5-mile radius of lat. 44°34′32″ N., long. 111°11′51″ W. extending clockwise from the 026° bearing from lat. 44°34′32″ N., long. 111°11′51″ W. to the 081° bearing from lat. 44°34′32″ N., long. 111°11′51″ W.; that airspace extending upward from 12,500 feet MSL within 4.3 miles each side of the 293°, 329° and 043° bearing from lat. 45°00′19″ N., long. 110°53′49″ W., extending to 29.18 miles west to 35.66 miles northwest to 58.99 miles north, and within 4.3 miles each side of the 312° bearing from lat. 44°31′10″ N., long. 111°14′03″ W., extending to 29.45 miles northwest; that airspace extending upward from 13,000 feet MSL within a 30.5-mile radius of lat. 44°34′32″ N., long. 111°11′51″ W., extending clockwise from the 313° bearing to the 026° bearing from lat. 44°34′32″ N., long. 111°11′51″ W., excluding that portion that overlies V–298 and V–343. This Class E airspace area shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Seattle, Washington, on December 10, 2009.

H. Steve Karnes,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. E9–30289 Filed 12–18–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–1036; Airspace Docket No. 09–AAL–17]

Proposed Revision of Class E Airspace; Iliamna, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revise Class E airspace at Iliamna, AK. Amended Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAPs), conventional SIAPs, and an Obstacle Departure Procedure (ODP) at Iliamna Airport have made this action necessary to enhance safety and management of Instrument Flight Rules (IFR) operations.

DATES: Comments must be received on or before February 4, 2010.

ADDRESSES: Send comments on the proposal to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2009–1036/ Airspace Docket No. 09–AAL–17, at the beginning of your comments. You may also submit comments on the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; *fax:* (907) 271–2850; *e-mail: gary.ctr.rolf@faa.gov. Internet address: http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/alaskan/rulemaking/.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2009–1036/Airspace Docket No. 09–AAL–17.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14 Code of Federal Regulations (14 CFR) part 71 by revising Class E airspace at Iliamna Airport, AK, to accommodate amended RNAV SIAPs at Iliamna Airport. This Class E airspace would provide adequate controlled airspace upward from the surface, and from 700 and 1,200 feet above the surface, for the safety and management of IFR operations at Iliamna Airport.

The Class E2 surface areas are published in paragraph 6002 in FAA Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be subsequently published in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to revise Class E airspace at Iliamna Airport, Iliamna, AK, and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9T, *Airspace Designations and Reporting Points,* signed August 27, 2009, and effective September 15, 2009, is to be amended as follows:

* * * * *

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AAL AK E2 Iliamna, AK [Revised]

Iliamna Airport, AK
(Lat. 59°45′20″ N., long. 154°55′04″ W.)
Iliamna NDB
(Lat. 59°44′53″ N., long. 154°54′35″ W.)

Within a 4.9-mile radius of the Iliamna Airport, AK, and within 2.5 miles each side of the 200° bearing of the Iliamna NDB, extending from the 4.9-mile radius to 7 miles south of the Iliamna Airport, AK. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E Airspace Extending Upward from 700 Feet or More Above the Surface of the Earth.

* * * * *

AAL AK E5 Iliamna, AK [Revised]

Iliamna Airport, AK
(Lat. 59°45′20″ N., long. 154°55′04″ W.)
Iliamna NDB
(Lat. 59°44′53″ N., long. 154°54′35″ W.)

That airspace extending upward from 700 feet above the surface within a 7.2-mile radius of the Iliamna Airport, AK, and within 4 west and 8 miles east of the 200° bearing of the Iliamna NDB, extending from the 7.2-mile radius to 16 miles south of the Iliamna Airport, AK; and that airspace extending upward from 1,200 feet above the surface within a 73-mile radius of the Iliamna Airport, AK.

* * * * *

Issued in Anchorage, AK, on December 3, 2009.

Michael A. Tarr,

Acting Manager, Alaska Flight Services Information Area Group.

[FR Doc. E9–30281 Filed 12–18–09; 8:45 am]

BILLING CODE 4910–13–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1614

RIN Number 3046–AA73

Federal Sector Equal Employment Opportunity

AGENCY: Equal Employment Opportunity Commission (EEOC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Equal Employment Opportunity Commission is proposing revisions to its federal sector complaint processing regulations. These proposals implement recommendations of the Commissioners' Federal Sector Workgroup.

DATES: Comments on the notice of proposed rulemaking must be received on or before February 19, 2010.

ADDRESSES: Written comments should be submitted to Stephen Llewellyn, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, Room 6NE03F, 131 M Street, NE., Washington, DC 20507. As a convenience to commentators, the Executive Secretariat will accept comments totaling six or fewer pages by facsimile (''FAX'') machine. This limitation is necessary to assure access to the equipment. The telephone number of the FAX receiver is (202) 663–4114. (This is not a toll-free number.) Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4070 (voice) or (202) 663–4074 (TTD). (These are not toll-free telephone numbers.) You may also submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments. Copies of comments submitted by the public can be reviewed at *http://www.regulations.gov* or by appointment at the Commission's library, 131 M Street, NE., Washington, DC 20507 between the hours of 9:30 a.m. and 5 p.m. (call 202–663–4630 (voice) or 202–663–4641 (TTY) to schedule an appointment).

FOR FURTHER INFORMATION CONTACT: Thomas J. Schlageter, Assistant Legal Counsel, Kathleen Oram, or Gary Hozempa, Office of Legal Counsel, 202–663–4640 (voice), 202–663–7026 (TDD). This notice is also available in the following formats: large print, braille, audio tape and electronic file on computer disk. Requests for this notice in an alternative format should be made to EEOC's Publications Center at 1–800–669–3362.

SUPPLEMENTARY INFORMATION: In 2004, former EEOC Chair Cari M. Dominguez asked Commissioner Stuart J. Ishimaru to lead a workgroup to develop consensus recommendations from the Commissioners for improvements to the discrimination complaint process for Federal employees. The Federal Sector Workgroup considered testimony and submissions from the November 12, 2002 Commission meeting on Federal sector reform, draft staff proposals for Federal sector reform, and numerous submissions of internal and external stakeholders with suggestions for improvements to the Federal sector process. The Workgroup determined that there was not consensus within the Workgroup for large scale revision of the Federal sector EEO process at this time, but that there was agreement on several discrete changes to the existing regulations that would clarify or build on the improvements made by the last major revisions to Part 1614 in 1999. These regulation changes will be accompanied by the issuance of additional guidance in Management Directive 110 and other program changes at EEOC.

The Commission sent the draft NPRM to 170 Federal agencies for coordination, pursuant to Executive Order 12067. Thirty-three agencies or agency components submitted comments on the proposed draft. Three agencies noted that they had no comments, or that they believed the proposed changes were improvements. Of the remaining thirty comments, nearly one-third were from various components of the Department of Justice. The inter-agency comments are summarized where appropriate in the discussion of the proposed changes below.

Agency Process

The Workgroup considered many recommendations for improvement to the parts of the Federal sector EEO process for which the agencies bear responsibility—counseling, investigations, and final actions. The Workgroup made a number of non-regulatory and regulatory recommendations to improve the agency process. EEOC proposes the following changes to the agency process in part 1614.

The Commission proposes to add two new paragraphs to § 1614.102. One paragraph requires that agency EEO programs comply with part 1614 and the Management Directives and Bulletins issued by EEOC, and indicates that the Commission will review

programs for compliance and that the Chair may issue notices to agencies when non-compliance is found. With this provision, the Commission intends to provide a mechanism for reviewing and seeking compliance from agencies that fail to comply with the requirements of Part 1614, Management Directive 110, Management Directive 715, and Management Bulletin 100–1. The proposed regulation would also require that agencies comply with any Management Directives or Bulletins that may be issued in the future. Federal agencies will receive appropriate notice of any new or changed Management Directives or Management Bulletins.

A number of agencies opposed this proposal, arguing that requiring agency compliance with EEOC directives and bulletins that have not been subject to the notice and comment rulemaking process violates the Administrative Procedure Act. In this proposed new paragraph, the Commission simply intends to remind agencies of their statutory responsibilities, contained in section 717(b) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e(16)(b), to ''comply with such rules, regulations, orders, and instructions'' issued by EEOC. A few agencies also commented on the proposed review of agency programs for compliance and the issuance of non-compliance notices. Some objected to the proposal, and others questioned whether EEOC would afford a non-compliant agency an opportunity to comply or explain its non-compliance before reporting the non-compliance or issuing a notice from the Chair. Agencies are currently afforded the opportunity to respond to non-compliance notices and to communicate with EEOC regarding their compliance actions. Under the proposed compliance regulation, EEOC will continue to offer agencies opportunities to respond and explain their programs.

The second proposed new paragraph to § 1614.102 would permit EEOC to grant agencies variances from particular provisions of part 1614 to conduct pilot projects for processing complaints in ways other than those prescribed in part 1614. Such pilots would be subject to EEOC approval by vote of the Commissioners and would usually not be granted for more than 12 months. Pilots could provide helpful data for future recommendations for changes to the Federal sector process.

The agencies that commented on the pilot proposal were all in favor of it. Most agencies noted that 12 months is too short a period within which to conduct a pilot and gauge its effectiveness. Some suggested that the time period should be two years, while others suggested that the regulation allow for an automatic extension to allow all complaints that entered a pilot to be fully processed in the pilot. Other agencies requested guidance on the pilot program elements that will be viewed favorably by EEOC. We note that pilots will not necessarily start on the date EEOC approves them because it may take some time for agencies to implement approved pilot projects. We seek additional comments on the length of time for pilots and on whether EEOC should provide for extensions of pilots. In addition, we note that the Commission will issue guidance in its Management Directive 110 on the procedures for requesting approval of pilots, including, among other things, information on plans for publicizing the pilot among agency employees, criteria for evaluating the success of the pilot, anticipated start and end dates, quarterly reports, etc.

The Commission proposes to add a new paragraph to § 1614.108 Investigation of complaints, that would require agencies that have not completed an investigation within the 180 day time limit for investigations (or up to 360 days if the complaint has been amended) to send a notice to the complainant indicating that the investigation is not complete, providing the date by which it will be completed, and explaining that the complainant has the right to request a hearing or file a lawsuit. The Commission believes that complainants may have forgotten their right to request a hearing or file a lawsuit 180 days after filing the complaint, or may not be aware of when the 180-day period expires. In addition, the Commission believes that requiring such a notice may shorten delays in agency investigations by providing an incentive for agencies to timely complete their investigations. The notice would be in writing and would describe the hearing process and include a simple explanation of discovery and burdens of proof.

Several agencies commented favorably on the notice proposal, but a larger number opposed it, arguing that it is superfluous, since the regulations require agencies to send notices detailing time limits to complainants at counseling and initial filing of the complaint. We are not persuaded by the agencies' arguments. The proposed notice would come later in the process, right at the time when the complainant has the right to request a hearing or file a civil action. The notice is intended to give the complainant the information needed to decide whether to wait for the completion of the investigation or request a hearing. We note, as well, that an agency's failure to provide the notice cannot be the basis of a ''failure to properly process'' claim. EEOC eliminated the investigation of ''spin-off'' complaints (those that allege failure to properly process a complaint) in the 1999 amendments to part 1614. It will continue to be the case that any ''failure to properly process'' claims must be dismissed, including any such claim involving an agency's failure to provide the proposed new notice.

The Commission proposes two clarifying changes in the agency process section of the regulations. Section 1614.103(b)(6) would be amended to comport with the coverage provisions of the Rehabilitation Act and state that part 1614 applies to discrimination complaints against the Government Printing Office, except for complaints under the Rehabilitation Act.

It is also proposed to revise the dismissals section to clarify that complaints alleging discrimination in proposals to take personnel actions or other preliminary steps to taking personnel actions should be dismissed unless the complaint alleges that a proposal or preliminary step is retaliatory. This change would conform the dismissals section of part 1614 to long-standing private sector Commission policy guidance on retaliation as set forth in EEOC's Compliance Manual. *See* 2 EEOC Compliance Manual § 8–II.D.3 (1998) (''[A]ny adverse treatment that is based on a retaliatory motive and is reasonably likely to deter the charging party or others from engaging in protected activity'' is prohibited retaliation.). This change also will bring the regulations into conformity with published EEOC Federal sector appellate decisions that have addressed whether, notwithstanding 1614.107(a)(5), complaints challenging proposed or preliminary actions as retaliatory state a claim and should be investigated. *See, e.g., Lorina D. Goodwin* v. *F. Whitten Peters, Secretary, Department of the Air Force,* EEOC Appeal Nos. 01991301 & 01A01796, 2000 WL 1616337 (October 18, 2000) (holding that the complainant's challenge of a proposed dismissal as being retaliatory stated a claim because ''proposed actions can be considered adverse actions in the reprisal context if they are reasonably likely to deter protected activity'').

We note that this proposed change to the 1614.107(a)(5) dismissal provision does not change the standard for stating a claim of retaliation under Title VII. While agencies would no longer be able to dismiss a claim alleging that a proposal or preliminary step was

retaliatory under 29 CFR 1614.107(a)(5), they would still evaluate the claim under the failure to state a claim dismissal provision in 29 CFR 1614.107(a)(1). It is expected that agencies would only dismiss allegedly retaliatory proposals and other preliminary steps under 29 CFR 1614.107(a)(1) if the alleged retaliatory actions were not materially adverse, that is, if the alleged retaliatory proposal or preliminary step would not dissuade a reasonable worker in the complainant's circumstances from engaging in protected EEO activity.

Not all preliminary steps or proposals would constitute actionable retaliation. As noted by the Supreme Court in *Burlington Northern & Santa Fe Railway Co.* v. *White,* 548 U.S. 53, 68 (2006), ''[a]n employee's decision to report discriminatory behavior cannot immunize that employee from those petty slights or minor annoyances that often take place at work and that all employees experience.'' *See also* 2 EEOC Compliance Manual § 8–II.D.3 (1998) (''[P]etty slights and trivial annoyances are not actionable, as they are not likely to deter protected activity.''). Therefore, the challenged preliminary step or proposed action must be likely to deter a reasonable employee from protected activity. Given all the circumstances, a proposed letter of warning may not deter a reasonable complainant from filing a complaint, whereas a proposed suspension may have a deterring effect. ''Context matters * * * for an 'act that would be immaterial in some situations is material in others.''' *Burlington Northern,* 548 U.S. at 69 (quoting *Washington* v. *Illinois Dept. of Revenue,* 420 F.3d 658, 661 (7th Cir. 2005)).

A number of agencies objected to the proposal, arguing that it is inconsistent with the statutory text applicable to the Federal sector or that it would encourage the filing of premature and non-actionable complaints. One agency's alternative proposal would exempt from dismissal complaints alleging that a proposal or preliminary step is retaliatory only if they contain allegations of severe or repeated threats of adverse action that may state a claim of a hostile work environment. This alternative proposal would amend § 1614.107(a) along the following lines: ''Prior to a request for a hearing in a case, the agency shall dismiss an entire complaint: * * * (5) That is moot or alleges that a proposal to take a personnel action, or other preliminary step to taking a personnel action, is discriminatory, *except that with regard to a claim of retaliation, allegations of severe or repeated threats of adverse action may state a claim of a hostile work environment that is not subject to dismissal on such basis.''*

In considering this alternative proposal, it should be noted that the Supreme Court has recognized that a hostile work environment is created where an employer's actions are ''sufficiently severe or pervasive 'to alter the conditions of [the victim's] employment and create an abusive working environment.''' *Meritor Savings Bank* v. *Vinson,* 477 U.S. 57, 67 (1986) (citation omitted). Where the threatened act or acts, if implemented, would be sufficiently severe in the context of the complainant's employment to result in a materially adverse consequence to the employee, the threats may meet this standard.

Under this alternative proposal, the alleged retaliation should be viewed in the context of the complainant's underlying claim of discrimination. Together, the allegations of discrimination and of retaliatory threats for challenging that discrimination could constitute pervasive conduct that amounts to an actionable hostile work environment.

In addition, courts have recognized that single actions, if sufficiently severe, can without more constitute a hostile work environment. *See, e.g., Smith* v. *Sheahan,* 189 F.3d 529, 534 (7th Cir. 1999) (''[a]lthough less severe acts of harassment must be frequent or part of a pervasive pattern of objectionable behavior in order to rise to an actionable level, 'extremely serious' acts of harassment do not'') (citing *Faragher* v. *City of Boca Raton,* 524 U.S. 775, 788 (1998)). Therefore, a single threat of adverse action made because the employee complains of, or opposes, unlawful discrimination, may satisfy the standard set forth in the alternative proposal if it threatens sufficiently serious consequences (even if the threat is made before the employee files an EEO claim). For example, a retaliatory threat of termination of employment against an employee complaining of, or opposing, unlawful discrimination could in appropriate circumstances constitute retaliation with consequences so severe that the complaint challenging that threat should not be dismissed. A retaliatory threat of actions that would cause significant monetary loss, such as a lengthy suspension without pay or threats of future violence, could also be sufficient in appropriate circumstances.

The regulation proposed by EEOC differs from the alternative proposal discussed above. Under the Commission's proposal, it would be sufficient for the employee to show that the challenged agency proposed action or threat is likely to dissuade a reasonable employee from complaining or assisting in complaints about discrimination. Under the alternative proposal, the employee would have to show that the proposed actions or threats were either pervasive enough or severe enough to create a hostile working environment. EEOC invites comments on both its proposed regulation and on the alternative proposed language.

EEOC Process

The Workgroup recommended a number of changes to improve the hearings and appeals processes. The hearings changes are primarily non-regulatory. With respect to appeals, the Commission proposes to require that agencies submit appeals records and complaint files to the Commission electronically. Complainants would be encouraged, but not required, to submit appeals and other documentation electronically. Several agencies submitted comments in favor of the electronic submission proposal. Many others, however, expressed reservations, noting that each agency has unique information technology security requirements, and expressing concern about ensuring the security of files and the costs of converting paper files. Some agencies asked that the implementation of an electronic filing requirement be delayed to allow agencies to budget for it and develop the means to comply. We have retained the electronic filing provision, as we believe that it will enable more efficient processing of appeals. As to delayed implementation, we note that EEOC will have to secure approval from the National Archives and Records Administration to maintain EEO appeal records electronically before commencing such a program.

The Commission also proposes to revise § 1614.402(f) to require that briefs in opposition to appeals be submitted to the Commission and served on the opposing party within 35 days of service of the statement or brief supporting the appeal (as opposed to the existing requirement that they be filed within 30 days of receipt of the statement or brief supporting the appeal.) Agency comments on this proposal were mixed. Those that were opposed expressed concerns about the delays in receipt of mail caused by the irradiation of mail in Washington, DC. We are requesting additional comments on how widespread the irradiation delays are and whether irradiation delays affect only agencies.

The Commission proposes to revise § 1614.405(b) (redesignated as § 1614.405(c)) to provide that decisions

under the section are final for purposes of filing a civil action in federal court, unless a timely request for reconsideration is filed by a party to the case. Several agencies concurred with this proposal. The Commission also proposes to revise § 1614.504(c) to differentiate the remedies available for breach of settlement agreements and breach of final decisions. For breach of a settlement, the section would continue to state that the Commission may order compliance or reinstatement of the complaint for further processing from the point processing ceased, whereas for breach of a final decision, the proposal would clarify that compliance is the only remedy. Three agencies expressed their agreement with the proposed change. The Commission also proposes editorial changes to §§ 1614.402, 1614.405(a) and 1614.409 to correct errors and omissions.

Class Complaints

The Workgroup carefully considered the class complaint process and made a number of recommendations to improve its effectiveness. As a result of those recommendations, the Commission proposes to revise the class complaint regulations to make an administrative judge's decision on the merits of a class complaint a final decision, which the agency can fully implement or appeal in its final action. Currently, the administrative judge issues recommended findings and conclusions, which the agency may accept, reject, or modify in its final decision. For non-class complaints, the Commission changed the administrative judge's recommended decision to a final decision that is fully implemented or appealed by the agency in its final action in the 1999 regulation changes. This proposed change adopts the same language used in the individual complaint provision (''if the final order does not fully implement the decision of the administrative judge, then the agency shall simultaneously file and appeal * * * .'' 29 CFR 1614.110(a)) and would conform the class complaint decisions to the non-class complaint decisions.

Four agencies commented in favor of the proposed change, but ten opposed it. The opposing agencies objected to removing the agencies' option to modify the findings and recommendations of the administrative judge, arguing that the change would impede their ability to settle cases. Agencies raised similar objections when the Commission proposed to make non-class complaint administrative judge decisions final in 1999, but there has been no indication since then that agencies have been less able to settle complaints.

The Commission also proposes to provide for expedited processing of appeals of decisions to accept or dismiss class complaints (certification decisions) to shorten the class certification process. Specifically, the Commission proposes to amend § 1614.405, to provide that decisions on appeals of decisions to accept or dismiss class complaints will be issued within 90 days of receipt of the appeal.

Finally, the Commission proposes an editorial change to § 1614.204(f)(1) to correct the omission of the word ''shall.''

Other Clarifying Changes

The Commission proposes to amend § 1614.109(g) to rename the section ''Summary Judgment'' instead of ''Decision without a hearing.'' This change is intended to convey more clearly the Commission's policy that the standards of Rule 56 of the Federal Rules of Civil Procedure governing summary judgments apply in the EEOC hearings process. This change is not intended, however, to alter existing Commission policy or practice; Commission decisions on the summary judgment process will continue to apply.

The Commission proposes to amend § 1614.302(c)(2) to correct an erroneous cross reference. The section should refer to § 1614.107(a)(4).

Finally, the Commission proposes to revise § 1614.502(c) to change the time frame within which agencies must provide the relief ordered from 60 days to 120 days. The regulation currently requires an agency to pay an administrative complainant who prevails before the EEOC within 60 days of EEOC's final decision. Since 1991, however, complainants have had up to 90 days to file suit in United States district court if they are dissatisfied with EEOC's decision. Once a civil action is filed, the EEOC decision is no longer final and the agency does not have to provide the relief awarded. Amending the regulation to require agency payment within 120 days will ensure that the EEOC award is final before the agency provides the relief. Agency comments were uniformly in favor of this proposed change.

Regulatory Procedures

Executive Order 12866

In promulgating this notice of proposed rulemaking, the Commission has adhered to the regulatory philosophy and applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This proposed regulation has been designated as a significant regulation and reviewed by OMB consistent with the Executive Order.

Regulatory Flexibility Act

The Commission certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this rule will not have a significant economic impact on a substantial number of small entities, because it applies exclusively to employees and agencies of the federal government. For this reason, a regulatory flexibility analysis is not required.

Unfunded Mandates Reform Act of 1995

This proposed rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Paperwork Reduction Act

This regulation contains no information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 29 CFR Part 1614

Administrative practice and procedure, Age discrimination, Equal employment opportunity, Government employees, Individuals with disabilities, Race discrimination, Religious discrimination, Sex discrimination.

For the Commission

Dated: December 15, 2009.

Stuart J. Ishimaru,

Acting Chairman.

Accordingly, for the reasons set forth in the preamble, the Equal Employment Opportunity Commission proposes to amend chapter XIV of title 29 of the Code of Federal Regulations as follows:

PART 1614—[AMENDED]

1. The authority citation for 29 CFR part 1614 continues to read as follows:

Authority: 29 U.S.C. 206(d), 633a, 791 and 794a; 42 U.S.C. 2000e–16; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218; E.O. 11222, 3 CFR, 1964–1965 Comp., p. 306; E.O. 11478, 3 CFR, 1969 Comp., p. 133; E.O. 12106, 3 CFR, 1978 Comp., p. 263; Reorg. Plan No. 1 of 1978, 3 CFR, 1978 Comp., p. 321.

2. In § 1614.102 add new paragraphs (e) and (f) to read as follows:

§ 1614.102 Agency program.

* * * * *

(e) Agency programs shall comply with this part and the Management Directives and Bulletins that the Commission issues. The Commission will review agency programs from time to time to ascertain whether they are in compliance. If an agency program is found not to be in compliance, efforts shall be undertaken to obtain compliance. The Chair may issue a notice to the head of any federal agency whose programs are not in compliance and identify each non-compliant agency in the Office of Federal Operations' annual report on the Federal workforce.

(f) Unless prohibited by law or executive order, the Commission, in its discretion and for good cause shown, may grant agencies prospective variances from the complaint processing procedures prescribed in this Part. Variances will permit agencies to conduct pilot projects of proposed changes to the complaint processing requirements of this part that may later be made permanent through regulatory change. Agencies requesting variances must identify the specific section(s) of this part from which they wish to deviate and exactly what they propose to do instead, explain the expected benefit and expected effect on the process of the proposed pilot project, indicate the proposed duration of the pilot project, and discuss the method by which they intend to evaluate the success of the pilot project. Variances will not be granted for individual cases and will usually not be granted for more than 12 months. Requests for variances should be addressed to the Director, Office of Federal Operations.

3. Revise 1614.103(b)(6) to read as follows:

§ 1614.103 Complaints of discrimination covered by this part.

* * * * *

(b) * * *

(6) The Government Printing Office except for complaints under the Rehabilitation Act; and

* * * * *

4. Revise 1614.107(a)(5) to read as follows:

§ 1614.107 Dismissals of complaints.

(a) * * *

(5) That is moot or alleges that a proposal to take a personnel action, or other preliminary step to taking a personnel action, is discriminatory, unless the complaint alleges that the proposal or preliminary step is retaliatory;

* * * * *

5. Amend 1614.108 by redesignating paragraph (g) as paragraph (h), and adding a new paragraph (g) to read as follows:

§ 1614.108 Investigation of complaints.

* * * * *

(g) If the agency does not send the notice required in paragraph (f) of this section within the applicable time limits, it shall, within those same time limits, issue a written notice to the complainant informing the complainant that it has been unable to complete its investigation within the time limits required by § 1614.108(f) and estimating a date by which the investigation will be completed. Further, the notice must explain that if the complainant does not want to wait until the agency completes the investigation, he or she may request a hearing in accordance with paragraph (h) of this section, or file a civil action in an appropriate United States District Court in accordance with section 1614.407(b). Such notice shall contain information about the hearing procedures.

* * * * *

§ 1614.109 [Amended]

6. Amend the heading of § 1614.109(g) to remove the words ''Decisions without hearing'' and add in their place the words ''Summary Judgment.''

7. Amend 1614.204 to:

a. In paragraph (f)(1) remove the words ''administrative judge notify'' from the first sentence and add in their place the words ''administrative judge shall notify.''

b. Revise paragraphs (i), (j) and (k) to read as set forth below.

c. In paragraph (l)(2) remove the words ''final decision'' and add in their place the words ''final order.''

d. In paragraph (l)(3) remove the words ''final decision'' wherever they appear in the first and next to last sentences and add in their place the words ''final order''; and revise the third sentence to read as set forth below.

§ 1614.204 Class complaints.

* * * * *

(i) *Decisions:* The administrative judge shall transmit to the agency and class agent a decision on the complaint, including findings, systemic relief for the class and any individual relief, where appropriate, with regard to the personnel action or matter that gave rise to the complaint. If the administrative judge finds no class relief appropriate, he or she shall determine if a finding of individual discrimination is warranted and, if so, shall order appropriate relief.

(j) *Agency final action.* (1) Within 60 days of receipt of the administrative judge's decision on the complaint, the agency shall take final action by issuing a final order. The final order shall notify the class agent whether or not the agency will fully implement the decision of the administrative judge and shall contain notice of the class agent's right to appeal to the Equal Employment Opportunity Commission, the right to file a civil action in federal district court, the name of the proper defendant in any such lawsuit, and the applicable time limits for appeals and lawsuits. If the final order does not fully implement the decision of the administrative judge, then the agency shall simultaneously file an appeal in accordance with § 1614.403 and append a copy of the appeal to the final order. A copy of EEOC Form 673 shall be attached to the final order.

(2) If an agency does not issue a final order within 60 days of receipt of the administrative judge's decision, then the decision of the administrative judge shall become the final action of the agency.

(3) A final order on a class complaint shall, subject to subpart D of this part, be binding on all members of the class and the agency.

(k) *Notification of final action:* The agency shall notify class members of the final action and relief awarded, if any, through the same media employed to give notice of the existence of the class complaint. The notice, where appropriate, shall include information concerning the rights of class members to seek individual relief, and of the procedures to be followed. Notice shall be given by the agency within 10 days of the transmittal of the final action to the agent.

(l) * * *

(3) * * * The claim must include a specific detailed showing that the claimant is a class member who was affected by the discriminatory policy or practice, and that this discriminatory action took place within the period of time for which class-wide discrimination was found in the final order. * * *

§ 1614.302 [Amended]

8. Remove the words ''§ 1614.107(d)'' wherever they appear in § 1614.302(c)(2) and add in their place the words ''§ 1614.107(a)(4).''

§ 1614.401 [Amended]

9. In § 1614.401(c), remove the words ''a class agent may appeal a final decision on a class complaint'' and add

in their place the words ''a class agent may appeal an agency's final action or an agency may appeal an administrative judge's decision on a class complaint.''

10. Add a new sentence to § 1614.402(a) before the last sentence to read as follows:

§ 1614.402 Time for appeals to the Commission.

(a) * * * Appeals described in § 1614.401(d) must be filed within 30 days of receipt of the final decision of the agency, the arbitrator or the Federal Labor Relations Authority. * * *

* * * * *

11. In § 1614.403, revise the first sentence of paragraph (a), revise the first sentence of paragraph (f) and add a new paragraph (g) to read as follows:

§ 1614.403 How to appeal.

(a) The complainant, agency, agent, grievant or individual class claimant (hereinafter appellant) must file an appeal with the Director, Office of Federal Operations, Equal Employment Opportunity Commission, at P.O. Box 77960, Washington, DC 20013, or electronically, or by personal delivery or facsimile. * * *

* * * * *

(f) Any statement or brief in opposition to an appeal must be submitted to the Commission and served on the opposing party within 35 days of service of the statement or brief supporting the appeal, or, if no statement or brief supporting the appeal is filed, within 60 days of receipt of the appeal. * * *

(g) Agencies are required to submit all appeals, complaint files, and other appellate filings to EEOC electronically, except in exigent circumstances. Appellants are encouraged, but not required, to submit appeals and supporting documentation electronically.

12. Amend § 1614.405 to revise the second sentence of paragraph (a), redesignate paragraph (b) as paragraph (c), add a new paragraph (b) and revise the first sentence of redesignated paragraph (c) to read as follows:

§ 1614.405 Decisions on appeals.

(a) * * * The Commission shall dismiss appeals in accordance with §§ 1614.107, 1614.403(c) and 1614.409. * * *

(b) The Office of Federal Operations, on behalf of the Commission, shall issue decisions on appeals of decisions to accept or dismiss a class complaint issued pursuant to § 1614.204(d)(7) within 90 days of receipt of the appeal.

(c) A decision issued under paragraph (a) of this section is final within the meaning of § 1614.407 unless a timely request for reconsideration is filed by a party to the case. * * *

13. Revise the first sentence of § 1614.409 to read as follows:

§ 1614.409 Effect of filing a civil action.

Filing a civil action under §§ 1614.407 or 1614.408 shall terminate Commission processing of the appeal. * * *

§ 1614.502 [Amended]

14. Revise the last sentence of § 1614.502(c) to remove the words ''60 days'' and in their place add the words ''120 days.''

15. Revise the second sentence of § 1614.504(c) to read as follows:

§ 1614.504 Compliance with settlement agreements and final action.

* * * * *

(c) * * * If the Commission determines that the agency is not in compliance with a decision or settlement agreement, and the noncompliance is not attributable to acts or conduct of the complainant, it may order such compliance with the decision or settlement agreement, or, alternatively, for a settlement agreement, it may order that the complaint be reinstated for further processing from the point processing ceased. * * *

[FR Doc. E9–30162 Filed 12–18–09; 8:45 am]

BILLING CODE 6570–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2009–0818; FRL–9087–4]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the South Coast Air Quality Management District portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from the application of adhesives and sealants, cleaning and degassing of storage tanks and pipelines, and coating operations of metal containers, closures, and coils. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by *January 20, 2010.*

ADDRESSES: Submit comments, identified by docket number [EPA–R09–OAR–2009–0818], by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

2. *E-mail: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or e-mail. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Nicole Law, EPA Region IX, (415) 947–4126, *law.nicole@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: SCAQMD Rule 1125, SCAQMD Rule 1149, and SCAQMD Rule 1168. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not

controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: October 23, 2009.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. E9–30151 Filed 12–18–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[OAR–2004–0091; FRL–9093–9]

Outer Continental Shelf Air Regulations Consistency Update for California

AGENCY: Environmental Protection Agency (''EPA'').

ACTION: Proposed rule.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf (''OCS'') Air Regulations. Requirements applying to OCS sources located within 25 miles of States' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (''COA''), as mandated by section 328(a)(1) of the Clean Air Act, as amended in 1990 (''the Act''). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which the South Coast Air Quality Management District (''South Coast AQMD'' or ''District'') is the designated COA. The intended effect of approving the OCS requirements for the South Coast AQMD is to regulate emissions from OCS sources in accordance with the requirements onshore. The changes to the existing requirements discussed below are proposed to be incorporated by reference into the Code of Federal Regulations and listed in the appendix to the OCS air regulations.

DATES: Any comments must arrive by January 20, 2010.

ADDRESSES: Submit comments, identified by docket number OAR–2004–0091, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions.

2. E-mail: *steckel.andrew@epa.gov*.

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or e-mail. *http://www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, Air Division (Air-4), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 947–4120, *allen.cynthia@epa.gov*.

SUPPLEMENTARY INFORMATION:

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I. Background and Purpose

On September 4, 1992, EPA promulgated 40 CFR part 55,[1] which established requirements to control air pollution from OCS sources in order to attain and maintain Federal and State ambient air quality standards and to comply with the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the States except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the Act requires that for such sources located within 25 miles of a State's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to section 55.12 of the OCS rule, consistency reviews will occur (1) At least annually; (2) upon receipt of a Notice of Intent under section 55.4; or (3) when a State or local agency submits a rule to EPA to be considered for incorporation by reference in part 55. This proposed action is being taken in response to the submittal of requirements by the South Coast AQMD. Public comments received in writing within 30 days of publication of this document will be considered by EPA before publishing a final rule.

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

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

SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

II. EPA's Evaluation

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

EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. EPA will consider these comments before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Region IX Office listed in the **ADDRESSES** section of this **Federal Register**.

III. Proposed Action

1. After review of the requirements submitted by the South Coast AQMD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following District requirements applicable to OCS sources. Earlier versions of these District rules are currently implemented on the OCS:

Rule #	Name	Adoption or amended date
301	Permit Fees	05/02/08
304	Equipment, Materials, and Ambient Air Analyses	05/02/08
304.1	Analyses Fees	05/02/08
306	Plan Fees	05/02/08
309	Fees for Regulation XVI	05/02/08
Regulation IX	Standards of Performance for New Stationary Sources	04/04/08
Regulation X	National Emission Standards for Hazardous Air Pollutants	04/04/08
1110.2	Emissions from Gaseous- and Liquid-Fueled Engines	02/01/08
1113	Architectural Coatings	07/13/07
1146	Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters.	09/05/08
1146.1	Emissions of Oxides of Nitrogen from Small Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters.	09/05/08
1149	Storage Tank and Pipeline Cleaning and Degassing	05/02/08
1171	Solvent Cleaning Operations	02/01/08
1403	Asbestos Emissions from Demolition/Renovation Activities	10/05/07

The District also submitted the following new rules which are not currently in effect on the OCS, for incorporation into part 55. We are proposing to incorporate these rules into part 55:

303	Hearing Board Fees	05/02/08
313	Authority To Adjust Fees and Due Dates	05/02/08
1309.1	Priority Reserve (Replaced)	08/03/07
1315	Federal New Source Review Tracking System (Readopted)	08/03/07
1472	Requirements for Facilities with Multiple Stationary Emergency Standby Diesel-Fueled Internal Combustion Engines.	03/07/08
2449	Control of Oxides of Nitrogen Emissions from Off-Road Diesel Vehicles	05/02/08

EPA is proposing not to incorporate into part 55 the following rule submitted by the South Coast AQMD, because it regulates toxics and is not rationally related to the attainment and maintenance of Federal or State ambient air quality standards or part C of title I of the Act:

1401	New Source Review of Toxic Air Contaminants	03/07/08

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

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

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

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

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, nor does it impose substantial direct compliance costs on tribal governments, nor preempt tribal law.

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

List of Subjects in 40 CFR Part 55

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

Dated: December 1, 2009.

Laura Yoshii,

Acting Regional Administrator, Region IX.

Title 40 of the Code of Federal Regulations, part 55, is proposed to be amended as follows:

PART 55—[AMENDED]

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

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401 *et seq.*) as amended by Pub. L. 101–549.

2. Section 55.14 is amended by revising paragraph (e)(3)(ii)(G) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of states seaward boundaries, by state.

* * * * *

(e) * * *

(3) * * *

(ii) * * *

(G) *South Coast Air Quality Management District Requirements Applicable to OCS Sources* (Parts I, II and III), September 2009.

* * * * *

3. Appendix A to CFR Part 55 is amended by revising paragraph (b)(7) under the heading ''California'' to read as follows:

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

* * * * *

California

* * * * *

(b) * * *

(7) The following requirements are contained in *South Coast Air Quality Management District Requirements Applicable to OCS Sources (Part I, II and III)*:

Rule 102 Definition of Terms (Adopted 12/3/04)
Rule 103 Definition of Geographical Areas (Adopted 01/9/76)
Rule 104 Reporting of Source Test Data and Analyses (Adopted 01/9/76)
Rule 108 Alternative Emission Control Plans (Adopted 04/6/90)
Rule 109 Recordkeeping for Volatile Organic Compound Emissions (Adopted 08/18/00)
Rule 112 Definition of Minor Violation and Guidelines for Issuance of Notice to Comply (Adopted 11/13/98)
Rule 118 Emergencies (Adopted 12/07/95)
Rule 201 Permit to Construct (Adopted 12/03/04)
Rule 201.1 Permit Conditions in Federally Issued Permits to Construct (Adopted 12/03/04)
Rule 202 Temporary Permit to Operate (Adopted 12/03/04)
Rule 203 Permit to Operate (Adopted 12/03/04)
Rule 204 Permit Conditions (Adopted 03/6/92)
Rule 205 Expiration of Permits to Construct (Adopted 01/05/90)
Rule 206 Posting of Permit to Operate (Adopted 01/05/90)
Rule 207 Altering or Falsifying of Permit (Adopted 01/09/76)
Rule 208 Permit and Burn Authorization for Open Burning (Adopted 12/21/01)
Rule 209 Transfer and Voiding of Permits (Adopted 01/05/90)
Rule 210 Applications (Adopted 01/05/90)
Rule 212 Standards for Approving Permits (Adopted 12/07/95) except (c)(3) and (e)
Rule 214 Denial of Permits (Adopted 01/05/90)
Rule 217 Provisions for Sampling and Testing Facilities (Adopted 01/05/90)
Rule 218 Continuous Emission Monitoring (Adopted 05/14/99)
Rule 218.1 Continuous Emission Monitoring Performance Specifications (Adopted 05/14/99)
Rule 218.1 Attachment A—Supplemental and Alternative CEMS Performance Requirements (Adopted 05/14/99)
Rule 219 Equipment Not Requiring a Written Permit Pursuant to Regulation II (Adopted 6/1/07)
Rule 220 Exemption—Net Increase in Emissions (Adopted 08/07/81)
Rule 221 Plans (Adopted 01/04/85)
Rule 301 Permitting and Associated Fees (Adopted 5/2/08) except (e)(7)and Table IV
Rule 304 Equipment, Materials, and Ambient Air Analyses (Adopted 5/2/08)
Rule 304.1 Analyses Fees (Adopted 5/2/08)
Rule 305 Fees for Acid Deposition (Rescinded 6/9/06)
Rule 306 Plan Fees (Adopted 5/2/08)
Rule 309 Fees for Regulation XVI (Adopted 5/2/08)
Rule 313 Authority to Adjust Fees and Due Dates (Adopted 5/2/08)
Rule 401 Visible Emissions (Adopted 11/09/01)
Rule 403 Fugitive Dust (Adopted 06/03/05)
Rule 404 Particulate Matter—Concentration (Adopted 02/07/86)
Rule 405 Solid Particulate Matter—Weight (Adopted 02/07/86)
Rule 407 Liquid and Gaseous Air Contaminants (Adopted 04/02/82)
Rule 408 Circumvention (Adopted 05/07/76)
Rule 409 Combustion Contaminants (Adopted 08/07/81)
Rule 429 Start-Up and Shutdown Exemption Provisions for Oxides of Nitrogen (Adopted 12/21/90)
Rule 430 Breakdown Provisions, (a) and (b) only (Adopted 07/12/96)
Rule 431.1 Sulfur Content of Gaseous Fuels (Adopted 06/12/98)
Rule 431.2 Sulfur Content of Liquid Fuels (Adopted 09/15/00)

Rule 431.3 Sulfur Content of Fossil Fuels (Adopted 05/7/76)
Rule 441 Research Operations (Adopted 05/7/76)
Rule 442 Usage of Solvents (Adopted 12/15/00)
Rule 444 Open Burning (Adopted 12/21/01)
Rule 463 Organic Liquid Storage (Adopted 05/06/05)
Rule 465 Refinery Vacuum-Producing Devices or Systems (Adopted 08/13/99)
Rule 468 Sulfur Recovery Units (Adopted 10/08/76)
Rule 473 Disposal of Solid and Liquid Wastes (Adopted 05/07/76)
Rule 474 Fuel Burning Equipment-Oxides of Nitrogen (Adopted 12/04/81)
Rule 475 Electric Power Generating Equipment (Adopted 08/07/78)
Rule 476 Steam Generating Equipment (Adopted 10/08/76)
Rule 480 Natural Gas Fired Control Devices (Adopted 10/07/77) Addendum to Regulation IV (Effective 1977)
Rule 518 Variance Procedures for Title V Facilities (Adopted 08/11/95)
Rule 518.1 Permit Appeal Procedures for Title V Facilities (Adopted 08/11/95)
Rule 518.2 Federal Alternative Operating Conditions (Adopted 12/21/01)
Rule 701 Air Pollution Emergency Contingency Actions (Adopted 06/13/97)
Rule 702 Definitions (Adopted 07/11/80)
Rule 708 Plans (Rescinded 09/08/95)
Regulation IX Standard of Performance for New Stationary Sources (Adopted 4/4/08)
Regulation X National Emission Standards for Hazardous Air Pollutants (Adopted 4/4/08)
Rule 1105.1 Reduction of PM_{10} And Ammonia Emissions From Fluid Catalytic Cracking Units (Adopted 11/07/03)
Rule 1106 Marine Coating Operations (Adopted 01/13/95)
Rule 1107 Coating of Metal Parts and Products (Adopted 1/6/06)
Rule 1109 Emissions of Oxides of Nitrogen for Boilers and Process Heaters in Petroleum Refineries (Adopted 08/05/88)
Rule 1110 Emissions from Stationary Internal Combustion Engines (Demonstration) (Repealed 11/14/97)
Rule 1110.1 Emissions from Stationary Internal Combustion Engines (Rescinded 06/03/05)
Rule 1110.2 Emissions from Gaseous-and Liquid Fueled Engines (Adopted 2/1/08)
Rule 1113 Architectural Coatings (Adopted 7/13/07)
Rule 1116.1 Lightering Vessel Operations-Sulfur Content of Bunker Fuel (Adopted 10/20/78)
Rule 1121 Control of Nitrogen Oxides from Residential-Type Natural Gas-Fired Water Heaters (Adopted 09/03/04)
Rule 1122 Solvent Degreasers (Adopted 10/01/04)
Rule 1123 Refinery Process Turnarounds (Adopted 12/07/90)
Rule 1125 Metal Container, Closure, and Coil Coating Operations (Adopted 3/7/08)
Rule 1129 Aerosol Coatings (Adopted 03/08/96)
Rule 1132 Further Control of VOC Emissions from High-Emitting Spray Booth Facilities (Adopted 5/5/06)
Rule 1134 Emissions of Oxides of Nitrogen from Stationary Gas Turbines (Adopted 08/08/97)
Rule 1136 Wood Products Coatings (Adopted 06/14/96)
Rule 1137 PM_{10} Emission Reductions from Woodworking Operations (Adopted 02/01/02)
Rule 1140 Abrasive Blasting (Adopted 08/02/85)
Rule 1142 Marine Tank Vessel Operations (Adopted 07/19/91)
Rule 1146 Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters (Adopted 9/5/08)
Rule 1146.1 Emission of Oxides of Nitrogen from Small Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters (Adopted 9/5/08)
Rule 1146.2 Emissions of Oxides of Nitrogen from Large Water Heaters and Small Boilers (Adopted 5/5/06)
Rule 1148 Thermally Enhanced Oil Recovery Wells (Adopted 11/05/82)
Rule 1149 Storage Tank Cleaning and Degassing (Adopted 5/2/08)
Rule 1162 Polyester Resin Operations (Adopted 7/8/05)
Rule 1168 Adhesive and Sealant Applications (Adopted 01/07/05)
Rule 1171 Solvent Cleaning Operations (Adopted 2/1/08)
Rule 1173 Control of Volatile Organic Compounds Leaks and Releases From Components at Petroleum Facilities and Chemical Plants (Adopted 6/1/07)
Rule 1175 Control of Emissions from the Manufacture of Polymeric Cellular (Foam) Products (Adopted 9/7/07)
Rule 1176 VOC Emissions from Wastewater Systems (Adopted 09/13/96)
Rule 1178 Further Reductions of VOC Emissions from Storage Tanks at Petroleum Facilities (Adopted 4/7/06)
Rule 1301 General (Adopted 12/07/95)
Rule 1302 Definitions (Adopted 12/06/02)
Rule 1303 Requirements (Adopted 12/06/02)
Rule 1304 Exemptions (Adopted 06/14/96)
Rule 1306 Emission Calculations (Adopted 12/06/02)
Rule 1313 Permits to Operate (Adopted 12/07/95)
Rule 1315 Federal New Source Review Tracking System (Readopted) (Adopted 8/3/07)
Rule 1403 Asbestos Emissions from Demolition/Renovation Activities (Adopted 10/5/07)
Rule 1470 Requirements for Stationary Diesel-Fueled Internal Combustion and Other Compression Ignition Engines (Adopted 6/1/07)
Rule 1472 Requirements for Facilities with Multiple Stationary Emergency Standby Diesel-Fueled Internal Combustion Engines (Adopted 3/7/08)
Rule 1605 Credits for the Voluntary Repair of On-Road Motor Vehicles Identified Through Remote Sensing Devices (Adopted 10/11/96)
Rule 1610 Old-Vehicle Scrapping (Adopted 7/11/08)
Rule 1612 Credits for Clean On-Road Vehicles (Adopted 07/10/98)
Rule 1612.1 Mobile Source Credit Generation Pilot Program (Adopted 03/16/01)
Rule 1620 Credits for Clean Off-Road Mobile Equipment (Adopted 07/10/98)
Rule 1701 General (Adopted 08/13/99)
Rule 1702 Definitions (Adopted 08/13/99)
Rule 1703 PSD Analysis (Adopted 10/07/88)
Rule 1704 Exemptions (Adopted 08/13/99)
Rule 1706 Emission Calculations (Adopted 08/13/99)
Rule 1713 Source Obligation (Adopted 10/07/88)
Regulation XVII Appendix (effective 1977)
Rule 1901 General Conformity (Adopted 09/09/94)
Regulation XX Regional Clean Air Incentives Market (Reclaim)
Rule 2000 General (Adopted 05/06/05)
Rule 2001 Applicability (Adopted 05/06/05)
Rule 2002 Allocations for Oxides of Nitrogen (NO_X) and Oxides of Sulfur (SO_X) (Adopted 01/07/05)
Rule 2004 Requirements (Adopted 4/6/07) except (l)
Rule 2005 New Source Review for RECLAIM (Adopted 05/06/05) except (i)
Rule 2006 Permits (Adopted 05/11/01)
Rule 2007 Trading Requirements (Adopted 4/6/07)
Rule 2008 Mobile Source Credits (Adopted 10/15/93)
Rule 2009 Compliance Plan for Power Producing Facilities (Adopted 01/07/05)
Rule 2010 Administrative Remedies and Sanctions (Adopted 4/6/07)
Rule 2011 Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Sulfur (SO_X) Emissions (Adopted 05/06/05)
Appendix A Volume IV—(Protocol for oxides of sulfur) (Adopted 05/06/05)
Rule 2012 Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Nitrogen (NO_X) Emissions (Adopted 05/06/05)
Appendix A Volume V—(Protocol for oxides of nitrogen) (Adopted 05/06/05)
Rule 2015 Backstop Provisions (Adopted 06/04/04) except (b)(1)(G) and (b)(3)(B)
Rule 2020 RECLAIM Reserve (Adopted 05/11/01)
Rule 2100 Registration of Portable Equipment (Adopted 07/11/97)
Rule 2449 Controls of Oxides of Nitrogen Emissions from Off-Road Diesel Vehicles (Adopted 5/2/08)
Rule 2506 Area Source Credits for NO_X and SO_X (Adopted 12/10/99)
XXX Title V Permits
Rule 3000 General (Adopted 11/14/97)
Rule 3001 Applicability (Adopted 11/14/97)
Rule 3002 Requirements (Adopted 11/14/97)
Rule 3003 Applications (Adopted 03/16/01)
Rule 3004 Permit Types and Content (Adopted 12/12/97)
Rule 3005 Permit Revisions (Adopted 03/16/01)
Rule 3006 Public Participation (Adopted 11/14/97)
Rule 3007 Effect of Permit (Adopted 10/08/93)

Rule 3008 Potential To Emit Limitations (Adopted 03/16/01)

XXXI Acid Rain Permit Program (Adopted 02/10/95)

* * * * *

[FR Doc. E9–30154 Filed 12–18–09; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 74, No. 243
Monday, December 21, 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

Agricultural Marketing Service

[Doc. No. AMS–LS–09–0079]

Request for an Extension of and Revision to a Currently Approved 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 from the Office of Management and Budget (OMB), for an extension for and revision to a currently approved information collection for Federal Seed Act Labeling and Enforcement.

DATES: Comments received by February 19, 2010 will be considered.

ADDRESSES: Interested persons are invited to submit written comments concerning this currently approved information collection notice. Comments should be submitted through the Web site at *http://www.regulations.gov*. Send written comments to Richard C. Payne, Chief, Seed Regulatory and Testing Branch (SRTB), Livestock and Seed Program, AMS, USDA, 801 Summit Crossing Place, Suite C, Gastonia, North Carolina 28054–2193, or by facsimile to (704) 852–4109. All comments should reference the docket number AMS–LS–09–0079. All comments received will be posted without change, including any personal information provided, on the Web site at *http://www.regulations.gov* and will be made available for public inspection at the above physical address during regular business hours.

SUPPLEMENTARY INFORMATION:

Title: Federal Seed Act Program.

OMB Number: 0581–0026.

Expiration Date of Approval: August 31, 2010.

Type of Request: Extension and revision of currently approved information collection.

Abstract: This information collection and recordkeeping requirements are necessary to conduct the Federal Seed Act (FSA) (7 U.S.C. 1551 *et seq.*) program with respect to certain testing, labeling, and recordkeeping requirements of agricultural and vegetable seeds in interstate commerce. Regulations under the FSA are contained in 7 CFR Part 201.

The FSA, Title II, is a truth-in-labeling law that regulates agricultural and vegetable planting seed in interstate commerce. Seed subject to the FSA must be labeled with certain quality information and it requires that information to be truthful. The FSA prohibits the interstate shipment of falsely advertised seed and seed containing noxious-weed seeds that are prohibited from sale in the State into which the seed is being shipped.

No unique forms are required for this information collection. The FSA requires seed in interstate commerce to be tested and labeled. Once in a State, seed must comply with the testing and labeling requirements of the State seed law. The same testing and labeling required by the FSA nearly always satisfies the State's testing and labeling requirements. Also the receiving, sales, cleaning, testing, and labeling records required by the FSA, are records that the shipper would normally keep in good business practice.

The information in this collection is the minimum information necessary to effectively carry out the enforcement of the FSA. With the exception of the requirements for entering a new variety into a State seed certification program (set forth separately below), the information collection is entirely recordkeeping rather than reporting.

Seed Testing, Labeling, and Recordkeeping

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.14 hours per recordkeeper.

Respondents: Interstate shippers and labelers of seed.

Estimated Number of Respondents: 2,870.

Estimated Total Annual Responses: 19,373.

Estimated Number of Responses per Respondent: 6.75.

Estimated Total Annual Burden on Respondents: 41,500 hours.

Eligibility Requirements for Certification of New Varieties and Recordkeeping

Estimate of Burden: Public reporting burden for this collection of information (eligibility for certification of new varieties) is estimated to average 2.23 hours per response.

Respondents: Entities seeking to enter new varieties into State seed certification programs.

Estimated Number of Respondents: 70.

Estimated Total Annual Responses: 630.

Estimated Number of Responses per Respondent: 9.

Estimated Total Annual Burden on Respondents: 1,406 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 will become a matter of public record.

Dated: December 15, 2009.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. E9–30261 Filed 12–18–09; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before January 11, 2010. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 09–064. *Applicant:* Yale University, 15 Prospect St., P.O. Box 208284, New Haven, CT 06520–8284. *Instrument:* Electron Microscope, Quanta 3D Dual-Beam Focused Ion-Beam Tool. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* The instrument will be used to study the physics and engineering of small structures, including the crystal structure of alumina. The instrument will be used for cutting precise cross-sections of materials and devices using a focused beam of gallium ions. The instrument is also equipped with a scanning electron microscope for the non-destructive viewing of samples. *Justification for Duty-Free Entry: No* instruments of same general category are manufactured in the United States. Application accepted by Commissioner of Customs: November 6, 2009.

Docket Number: 09–065. *Applicant:* U.S. Department of Homeland Security, Science and Technology Directorate, Office of National Labs, National Biodefense Analysis and Countermeasures Center, 8300 Research Plaza, Ft. Detrick, Frederick, MD 21702. *Instrument:* Scanning Electron Microscope, Quanta 200 FEG. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* The instrument will be used to study biological agents and specimens at the cellular and genomic levels. The instrument is an environmental/field emission system that allows specimens to be viewed without dehydration, a feature that can save time and allow greater flexibility in experimentation. This instrument provides the most automated functions (alignment, stigmation, focus) that significantly improve the quality and volume of observations. *Justification for Duty-Free Entry:* No instruments of same general category are manufactured in the United States. Application accepted by Commissioner of Customs: November 13, 2009.

Dated: December 14, 2009.

Christopher Cassel,

Director, IA Subsidies Enforcement Office.

[FR Doc. E9–30322 Filed 12–18–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 071213835–91361–02]

RIN 0648–ZB84

Guidelines for the Marine Debris Program Grant Program

AGENCY: National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of final guidelines for NOAA's Marine Debris Program Grant Program.

SUMMARY: The NOAA Marine Debris Division, Office of Response and Restoration, National Ocean Service, is issuing guidelines to implement the Marine Debris Program (MDP) grant program. The MDP was created by the Marine Debris Research, Prevention, and Reduction Act (33 U.S.C. 1951 *et seq.*) to coordinate, strengthen, and enhance the awareness of marine debris efforts within the agency, and to work with external partners to support research, prevention, and reduction activities related to the issue of marine debris. The NOAA MDP mission is to investigate and solve the problems that stem from marine debris through research, prevention, and reduction activities, in order to protect and conserve our nation's living marine resources and ensure navigation safety. Within the Act, the MDP is directed to develop formal guidelines for the implementation of a grant program. This notice identifies those guidelines.

ADDRESSES: Comments received may be viewed by contacting Sarah E. Morison, NOAA Marine Debris Program Coordinator, Office of Response and Restoration, N/ORR, 1305 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Sarah E. Morison, *Tel:* 301–713–2989 x120 or by e-mail at *Sarah.Morison@NOAA.gov.*

SUPPLEMENTARY INFORMATION: NOAA's Marine Debris Program (MDP) serves as a centralized marine debris capability within NOAA in order to coordinate, strengthen, and increase the visibility of marine debris issues and efforts within the agency, its partners, and the public. The mission of the NOAA Marine Debris Program is to investigate and solve the problems that stem from marine debris through research, prevention, and reduction activities, in order to protect and conserve our nation's living marine resources and ensure navigation safety.

Additionally, the MDP supports and works closely with various partners across the U.S. to fulfill the Program's mission. The guidelines implementing the MDP's grant program are set forth below.

Electronic Access

Information on the MDP can be found on the World Wide Web at: *http://marinedebris.noaa.gov*.

Discussion of Comments:

Only one comment was received in response to the solicitation for comment on the NOAA Marine Debris Program Grant Program Guidelines published in the **Federal Register** on March 20, 2008. This comment referenced a 1951 Act and outlined enforcement actions that should be taken to address pollution from commercial shipping. The comment was not applicable to the Guidelines and therefore NOAA is not providing a response to the comment.

The guidelines implementing the MDP grant program are set forth below.

NOAA Marine Debris Program Grant Program Guidelines

Section 1. Goals and Objectives

The Marine Debris Research, Prevention, and Reduction Act (the Act) (33 U.S.C. 1951 *et seq.*) establishes a marine debris program within the National Oceanic and Atmospheric Administration (NOAA) to reduce and prevent the occurrence and adverse impacts of marine debris on the marine environment, and navigation safety through activities such as:

- Mapping, identification, impact assessment, removal, and prevention;
- Reducing and preventing loss of fishing gear; and
- Outreach.

The Act also directs the Administrator to provide financial assistance in the form of grants to accomplish the Act's purpose of identifying, determining sources of, assessing, reducing, and preventing marine debris and its

adverse impacts on the marine environment, living marine resources, and navigation safety.

The Act further directs the Administrator to issue guidelines for the implementation of the grant program, including development of criteria and priorities for grants, in consultation with the Interagency Marine Debris Coordinating Committee; regional fishery management councils established under the Magnuson-Stevens Fishery Conservation and Management Act; state, regional, and local governmental entities with marine debris experience; marine-dependent industries; and nongovernmental organizations involved in marine debris research, prevention, and removal activities.

The grant program's objective is to bring together groups, public and non-profit organizations, industry, academia, commercial organizations, corporations and businesses, youth conservation corps, students, landowners, and local governments, and state and Federal agencies to implement marine debris-related projects to support NOAA's mission, ''to understand and predict changes in Earth's environment and conserve and manage coastal and marine resources to meet our Nation's economic, social, and environmental needs.'' These diverse entities will be sought at the national, state, and local level to contribute funding, technical assistance, workforce support or other in-kind services to allow citizens to take responsibility for the improvement of important living marine resources, their habitats and other uses of the ocean that are impacted by marine debris.

Section 2. Purpose of the Guidelines

These guidelines provide information for potential applicants to the NOAA Marine Debris Program's (MDP) grant program. In regard to MDP grants that may be awarded by NOAA through competitive solicitations, the guidelines explain the grant program goals and objectives, and the implementation of the competitive grant program.

In order to accomplish its comprehensive mission, the MDP anticipates using two different approaches in designing its grant program. First, the MDP will solicit recipients who will work directly on individual projects related to relevant marine debris issues. Second, the MDP will solicit diverse entities which will be funded to engage actively in establishing partnership arrangements with other organizations with the purpose of cooperatively implementing marine debris-related projects to benefit NOAA trust resources. The entities selected to establish these partnerships will assume the administrative responsibilities, such as letting contracts and managing progress and financial reports, for making subawards to accomplish individual projects.

Section 3. Definition of Terms

Act—Marine Debris Research, Prevention, and Reduction Act (Public Law 109–449, 33 U.S.C. 1951 *et seq.*)

Administrator—The Administrator of the National Oceanic and Atmospheric Administration

Marine Debris—For the purposes of the Marine Debris Research, Prevention, and Reduction Act only, marine debris is defined as any persistent solid material that is manufactured or processed and directly or indirectly, intentionally or unintentionally, disposed of or abandoned into the marine environment or the Great Lakes.

MDP—Marine Debris Program, within the NOAA National Ocean Service, Office of Response and Restoration, Marine Debris Division

NOAA—The National Oceanic and Atmospheric Administration, within the U.S. Department of Commerce

State—State means any State of the United States, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands, and any other territory or possession of the United States, or separate sovereign in free association with the United States.

Section 4. Eligible Participants

In accordance with section 3(c)(4) of the Act, any state, local or tribal government whose activities affect research or regulation of marine debris and any institution of higher education, nonprofit organization, Regional Fishery Management Council, or commercial organization with expertise in a field related to marine debris, is eligible to submit a marine debris proposal under this grant program. Individuals may also apply. Federal agencies are not eligible to apply for funding through any opportunity covered by these guidelines; however, they are encouraged to work in partnership with state agencies, municipalities, and community groups who may apply.

Section 5. Activities To Address Marine Debris

Generally, the MDP grant program is interested in funding projects that address one or more activities specified in the Act, including:

- Mapping, identification, impact assessment, removal and prevention of marine debris;
- Reducing and preventing the loss of fishing gear;
- Outreach and education; and
- Assisting in maintaining an up-to-date Federal marine debris information clearinghouse.

The MDP anticipates that proposed projects, either funded directly through NOAA or through entities selected to leverage funding through partnership arrangements with other organizations, should clearly demonstrate anticipated benefits to:

- Aquatic habitats, including but not limited to, salt marshes, seagrass beds, coral reefs, mangrove forests, or other sensitive aquatic habitats;
- Species, including marine mammals, commercial and non-commercial fishery resources; endangered and threatened marine species, seabirds, other NOAA trust resources, or other living marine resources;
- Navigation Safety; or
- Other aspects of the marine environment.

Research-focused projects should explicitly state the hypothesis or purpose of the research, the methods that will be used, and how the results may be used and analyzed to better understand or decrease the impacts or amount of marine debris in the environment. Research projects are not required to have an outreach component; however, they should include a method for sharing project results with other researchers and relevant parties.

Prevention-focused projects should have a component that is able to measure the success of the activity within a target audience or debris type.

Reduction-focused projects should emphasize reduction and prevention within local, state or regional plans. Removal of debris should result in benefits to the species and habitats listed in this section of these guidelines, and respond to a local, state or regional prioritization method. Projects that make debris less harmful while in the environment are also considered reduction-focused. Examples of this type of project are modifications to fishing gear so that, if lost, there is a mechanism for trapped animals to escape or a way to reduce the gear's fishing efficiency.

Outreach projects should be focused enough to achieve results within a target audience, be able to measure the attitudes and behaviors of the target audience before and after the project,

convey the importance of marine debris issues, and have tangible products.

The Federal marine debris information clearinghouse, as of September 2009, has not yet been organized. Its status will be updated and provided in any funding opportunity announcement that lists maintaining the clearinghouse as a priority, to focus project proposals.

The MDP anticipates that funding opportunities will note the priorities for the selection of applications in the competitive announcements. Such priorities may note that applications would be more likely to be successful if they demonstrated a clear need for the proposed action(s), assisted the nation in gaining a better understanding of, or addressing, marine debris, and have clear results within the priorities of the applicable funding opportunity. Monitoring or performance evaluation components to address the long-term success of the project are also encouraged. As is warranted, the MDP may develop other selection priorities for inclusion in the funding opportunities.

The MDP anticipates that non-research projects requesting funds predominantly for administration, salaries, and overhead may be discouraged in light of the fact that the majority of funds should be used for activities that would otherwise not be undertaken. Actual uses of the funds would depend on the type and focus of the project.

Section 6. Cost-sharing Requirement

Section 3(c)(2) of the Act states Federal funds may not exceed 50 percent of the total cost of a project under this Program. The competitive funding opportunities will set out how the match requirement may be met, such as through volunteer hours, and will vary depending on the entities selected for funding. The Act indicates that a waiver of the match may be allowed if the Administrator determines the project meets the following two requirements:

(1) No reasonable means are available through which applicants can meet the matching requirement, and

(2) the probable benefit of such project outweighs the public interest in the matching requirement.

Any applicant interested in requesting a waiver would have to provide a detailed justification explaining the need for the waiver including attempts to obtain sources of matching funds, how the benefit of the project outweighs the public interest in providing match, and any other extenuating circumstances preventing the availability of match.

In addition, the Act provides, in section 3(c)(3)(A), that if authorized by the Administrator or the Attorney General, the non-Federal share of the cost of a project may include money or the value of any in-kind service performed under an administrative order on consent or judicial consent decree that will remove or prevent marine debris.

Section 7. Funding Mechanisms

The MDP grant program may use new or existing NOAA grant programs as vehicles to fund projects related to the purposes of the Act. The MDP anticipates that competitive funding opportunities will be announced entailing marine debris funding and including funding priorities for that opportunity each year. There may be more than one opportunity each year. Opportunities will be made public through a Notice of Funding Availability (NOFA) published in the **Federal Register** and posted on *www.grants.gov.* The availability of funding to be awarded through subgrants from NOAA grant recipients, including applicable selection priorities, will be announced through e-mail, Web sites, and press releases.

Section 8. NOAA Funding Sources and Dispersal Mechanisms

The MDP grant program envisions funding projects through cooperative agreements and grants, as appropriate.

A cooperative agreement is a legal instrument reflecting a relationship between NOAA and a recipient whenever (1) the principal purpose of the relationship is to provide financial assistance to the recipient and (2) substantial involvement is anticipated between NOAA and the recipient during performance of the contemplated activity.

A grant is similar to a cooperative agreement, except that in the case of grants, substantial involvement between NOAA and the recipient is not anticipated during the performance of the contemplated activity. Financial assistance is the transfer of money, property, services or anything of value to a recipient in order to accomplish a public purpose of support or stimulation that is authorized by Federal statute.

Each year, the NOAA Marine Debris Division Chief will determine the proportion of Program funds that will be allocated to direct project funding through grants and to organizations that will leverage NOAA dollars through partnership arrangements. The proportion of funding to be allocated to these organizations may depend upon the amount of funds available from partnering organizations to leverage NOAA dollars and the ability of partners to help NOAA fund a broad array of projects over a wide geographic distribution.

Section 9. NOAA Selection Guidelines

NOAA's Notice of Funding Availability (NOFA) and accompanying Federal Funding Opportunity (FFO) announcement will contain funding opportunity descriptions, award information, eligibility information, application and submission information, priority funding areas for the year, application review and selection criteria, award administration information, Administrative and National Environmental Policy Act requirements, agency contacts, and other information for potential applicants. In 2000, NOAA adopted five standard evaluation criteria for all its competitive grant programs, as follows:

- Importance and Applicability of Proposal—This criterion ascertains whether there is intrinsic value in the proposed work and/or relevance to NOAA, Federal, regional, state or local activities.
- Technical/Scientific Merit—This criterion assesses whether the approach is technically sound and/or innovative, if the methods are appropriate, and whether there are clear project goals and objectives.
- Overall Qualifications of Applicants—This criterion ascertains whether the applicant possesses the necessary education, experience, training, facilities, and administrative resources to accomplish the project.
- Project Costs—This criterion evaluates the budget to determine if it is realistic and commensurate with the project needs and time-frame.
- Outreach, Education, and Community Involvement—NOAA assesses whether the project provides a focused and effective education and outreach strategy regarding NOAA's mission.

Information on how these criteria are specifically applied in the context of the NOAA Marine Debris Program will be described each year in the NOFAs and FFOs for NOAA-funded project awards and for awards to organizations that will issue subawards to fund projects related to marine debris issues.

Section 10. Partnerships With Other Federal Agencies

Should other Federal agencies partner with NOAA to award funding, opportunities will be published in

www.grants.gov and through such other vehicles as may be appropriate for the particular agency making the solicitation announcement. Examples would be the **Federal Register** or the particular agencies' Web sites. Application requirements may vary by partner agency and will be specified in the relevant solicitations.

Section 11. Environmental Compliance and Safety

It is the applicant's responsibility to obtain all necessary Federal, state, and local government permits and approvals for the proposed work. Applicants are expected to design their projects so that they minimize the potential for adverse impacts to the environment. NOAA must analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for applications that seek NOAA funding and which are subject to NOAA control and discretion. Proposals should provide enough detail for NOAA to make a NEPA determination. Successful applications cannot be forwarded to the NOAA Grants Management Division with recommendations for funding until NOAA completes necessary NEPA documentation or determines it does not apply.

Consequently, as part of an applicant's package, and under the description of proposed activities, applicants will be required to provide detailed information on the activities to be conducted, such as site locations, species and habitat(s) to be affected, possible construction activities, and any environmental concerns that may exist (*e.g.,* the use of and/or disposal of hazardous or toxic substances, introduction of non-indigenous species, impacts to endangered and threatened species, impacts to coral reef systems). For partnerships, where project-specific details may not be available at the time an award is made, partners must meet the same environmental compliance requirements on subsequent sub-awards.

In addition to providing specific information that will serve as the basis for any required impact analyses, applicants may also be required to assist NOAA in the drafting of an environmental assessment if NOAA determines an assessment is necessary and that one does not already exist for the activities proposed in the application. Applicants will also be required to cooperate with NOAA in identifying and implementing feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The selecting official may decide, at the time of proposal review, to recommend funding a project in phases to enable an applicant to provide information needed for an environmental assessment, feasibility analysis or similar activity if a NEPA determination cannot be made for all activities in a particular application. The selecting official may also impose special award conditions that limit the use of funds for activities that have outstanding environmental compliance requirements. Special award conditions may also be imposed, for example, to ensure that grantees consider and plan for the safety of volunteers, and provide appropriate credit for NOAA and other contributors.

Activities that address marine debris, particularly removal actions, can be dangerous and may require additional safety consideration. The applicant may be requested to submit safety information for activities being considered, to ensure full review and understanding. The selecting official may also impose special award conditions that limit the use of funds for activities that have outstanding safety issues.

Section 12. Funding Ranges

The funding opportunities, number of awards, and funding ranges to be made in future years will depend on the amount of funds appropriated to the MDP annually by Congress. Such information will be published in the NOFA and FFO for each funding opportunity.

Statutory Authority: Marine Debris Research, Prevention, and Reduction Act (33 U.S.C. 1951 *et seq.*)

Dated: December 10, 2009.

John H. Dunnigan,

Assistant Administrator, NOAA's National Ocean Service.

[FR Doc. E9–30205 Filed 12–18–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Mission Statement; Agricultural Equipment and Technology Mission, May 25–26, 2010

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Amendment.

Mission Description

The United States Department of Commerce, International Trade Administration, U.S. and Foreign Commercial Service (CS) is organizing an Agricultural Equipment and Technology Trade Mission to Abuja, Nigeria, May 25–26, 2010.

The Agricultural Equipment and Technology Mission is intended to include representatives from a variety of U.S. agricultural industry manufacturers and service providers. The mission will introduce the U.S. suppliers to end-users and prospective partners whose needs and capabilities are targeted to each U.S. participant's strengths. The mission will include one-on-one appointments and briefings in Abuja, Nigeria's capital, which is centrally located with respect to the country's agricultural regions. Trade mission participants will have the opportunity to interact extensively with private and public sector organizations in the agricultural industry to discuss industry developments, opportunities, and partnerships.

Commercial Setting

Nigeria is the United States' largest trading partner in sub-Saharan Africa, and the 17th largest trading partner in the world. With over $US4.2 billion in U.S. exports to Nigeria in 2008, the country ranks as the 50th-largest export market for U.S. goods. The United States is the largest foreign investor in Nigeria, with the bulk of investment concentrated in the petroleum sector, but also in consumer goods manufacturing.

Once the leading agricultural exporter in western and central Africa, Nigeria's agricultural sector suffered from neglect as the country's petroleum sector came to dominate economic activity and investment in recent decades. While oil revenues grew, local agricultural production dwindled, giving rise to a reliance on massive food imports. In 2008 alone, Nigeria imported an estimated $4 billion worth of food, including $US930 million in grain from the United States. Food imports likely will increase in the future in order to sustain Nigeria's population of over 140 million, which is growing at more than 2.5% per annum.

Faced with increasing food costs and potential food shortages, the Nigerian federal government initiated a program intended to revitalize its agricultural sector and encourage large scale commercial farming to create food security and employment. To this end, it set goals that include the rehabilitation of existing grain silos, construction of new grain silos to upgrade national strategic grain storage capacity to one million tons; procurement of over 10,000 new farm tractors; rehabilitation and installation

of irrigation systems; supply of over 400,000 metric tons of agricultural fertilizers; and the earmarking of a 200 billion naira (about $1.4 billion) in agricultural development funds for farmers to support these procurements. Many states in Nigeria have also started various agricultural projects that stand to boost demand for agricultural inputs and farm equipment to support mechanized farming. Many of Nigeria's farming activities take place in the country's northern region. Abuja has been selected to host the trade mission due to its close proximity to the northern states and the fact that all of the nation's federal departments and ministries are situated there. The city ranks among the country's safest and most organized in terms of infrastructure, and it is a major center of national and international trade.

Mission Goals

The goal of the Agricultural Equipment and Technology Mission is to (1) introduce U.S. companies to buyers, joint-venture partners and industry representatives; and (2) introduce U.S. companies to industry leaders and government officials in Nigeria to learn about various agricultural program opportunities.

Mission Scenario

In Abuja, the U.S. mission members will meet with officials of federal and state government agricultural agencies and ministries, and take part in business matchmaking appointments with end-users, commercial farmers, and private-sector organizations. In addition, they will attend a briefing with the U.S. Embassy staff in Nigeria. All Nigerian attendees participating in the matchmaking meetings will be pre-screened to determine their validity as well as to identify their business objectives for meeting with mission members. U.S. participants will be counseled before and after the mission by U.S. Export Assistance Center trade specialists. Participation in the mission will include the following:

- Pre-travel briefings/webinar on subjects ranging from business practices in Nigeria to security;
- Scheduled meetings with potential partners, distributors, end users, or local industry contacts in Nigeria;
- Transportation to and from the Abuja airport;
- US&FCS, industry and Nigerian government briefing;
- Networking reception and briefing.

Proposed Mission Timetable

Mission participants will be encouraged to arrive latest on Monday, May 24, since the mission program begins on Tuesday, May 25.

Tuesday, May 25	—Market briefing. —One-on-one business matchmaking appointments. —Evening networking reception.
Wednesday, May 26	—One-on-one business matchmaking appointments. —Evening reception with the U.S. Ambassador or representative.

Participation Requirements

All parties interested in participating in the Agricultural Equipment & Technology Trade Mission to Nigeria must complete and submit an application for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. The mission is open on a first come first served basis to 15 qualified U.S. companies.

Fees and Expenses

After a company has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee will be $2,200 for large firms and $1,800 for a small or medium-sized enterprise (SME),[1] which includes one principal representative. The fee for each additional firm representative (large firm or SME) is $500. Expenses for lodging, some meals, incidentals, and travel (except for transportation to and from airports in-country, previously noted) will be the responsibility of each mission participant.

Conditions for Participation

- An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation.
- Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content.

Selection Criteria

Selection will be based on the following criteria:

- Suitability of a company's products or services to the mission's goals.
- Applicant's potential for business in Nigeria, including likelihood of exports resulting from the trade mission.
- Consistency of the applicant's goals and objectives with the stated scope of the trade mission.

Any partisan political activities (including political contributions) of an applicant are irrelevant to the selection process.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register,** posting on the Commerce Department trade mission calendar (*http://www.ita.doc.gov/doctm/tmcal.html*) and other Internet Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment for the mission will begin immediately and conclude no later than March 31, 2010. Applications received after that date will be considered only if space and scheduling constraints permit.

Contacts

Project Officer for the U.S.

Timothy Cannon, U.S. Commercial Officer, U.S. Commercial Service—North Dakota, United States Department of Commerce, 51 Broadway, Suite 505, Fargo, ND 58102, Ph: (701) 239–5082/Fax (701) 237–9734. E-mail: *Timothy.cannon@mail.doc.gov http://*

[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (*see http://www.sba.gov/services/contractingopportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing schedule reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (for additional information see *http://www.export.gov/newsletter/march2008/initiatives.html*).

www.export.gov.
http://www.buyusa.gov/northdakota

Project Officer for Nigeria

Mr. Chamberlain Eke, Commercial Specialist, U.S. Commercial Service Lagos, Ph: +234–1–4603400/Fax: +234–1–2610544, E-mail: *Chamberlain.eke@mail.doc.gov http://www.buyusa.gov/nigeria*

Alternate Contacts for Nigeria

Mr. Larry Farris, Commercial Counselor, U.S. Commercial Service Lagos, Ph: +234–1–4603400/Fax: +234–1–2610544, E-mail: *Larry.farris@mail.doc.gov http://www.buyusa.gov/nigeria*

Mr. Christopher Becker, Commercial Officer, U.S. Commercial Service Lagos, Ph: +234–1–4603400/Fax: +234–1–2610544, E-mail: *Christopher.becker@mail.doc.gov http://www.buyusa.gov/nigeria*

Sean Timmins,

Global Trade Programs, Commercial Service Trade Missions Program.

[FR Doc. E9–30325 Filed 12–18–09; 8:45 am]
BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XS24

Takes of Marine Mammals Incidental to Specified Activities; Antioch Bridge Seismic Retrofit Project, California

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received an application from the California Department of Transportation (Caltrans) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to the Antioch Bridge Seismic Retrofit Project. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to Caltrans to incidentally harass, by Level B Harassment only, 10 harbor seals (*Phoca vitulina*) and 10 California sea lions (*Zalophus californianus*) during the specified activity.

DATES: Comments and information must be received no later than January 20, 2010.

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing email comments is *PR1.0648–XS24@noaa.gov*. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*. Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Jaclyn Daly, Office of Protected Resources, NMFS, (301) 713–2289, ext 151.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On May 5, 2009, NMFS received an application from Caltrans for the taking, by Level B harassment, of marine mammals incidental to retrofitting the Antioch Bridge, located 5.4 miles east of the confluence of the Sacramento and San Joaquin Rivers. To access shallow water piers, a temporary support trestle would be installed using a pile driver hammer. Because pile driving has the potential to result in behavioral harassment to marine mammals located in the action area, an authorization under section 101(a)(5)(D) of the MMPA is warranted.

Description of the Specified Activity

The Antioch Bridge, completed in 1978, was designed based on seismic standards that the Caltrans established in 1971. After the Loma Prieta in 1989, Caltrans implemented the Seismic Retrofit Program. After the Northridge Earthquake of 1994, Caltrans implemented Phase Two of the Program, which required seven state-owned toll bridges, including the Antioch Bridge, to be retrofitted. The Antioch Seismic

Retrofit Project would provide a seismic upgrade of the Antioch Bridge; the upgrade would meet the current requirements.

The Antioch Bridge is 9,437–ft long, accommodates one lane of traffic in either direction, and includes narrow accommodation for bicyclists and pedestrians. Proposed retrofit elements to the bridge include installation of steel bracings; replacement of the existing elastometric bearings with isolation bearings; and removal of the existing curtain walls and retrofit of all the columns within the slab span structure. To accomplish this, a temporary trestle would be built to allow access to the piers in shallow water (out to Pier 11). The temporary marine trestle would be constructed from the south shore of the San Joaquin River; out approximately 910–ft into the river along the west side of the existing bridge structure. This is where water depths are less than 10–ft below mean lower-low water (MLLW) and are too shallow to be accessed by barge. The trestle will be 25 ft wide with piles spaced 25–ft apart. It will be constructed using approximately 160 24–in steel hollow shell piles which will be installed with a vibratory hammer. Vibrating a single 24–in pile into place requires, at the most, ten minutes of noise generating vibration. In addition, Caltrans will ''proof'' or test one pile per day using an impact hammer to ensure the pile can sustain the required load. Proofing the piles would require approximately 20 blows per day, generating sound pressure for about one minute per day. The entire project is expected to take 2.5 years to complete; however, installation of the temporary piles is expected to take approximately 4 months and is planned for August 1- November 1, 2010. At the completion of the project, the trestle and all piles would be removed. All pile driving would be conducted during daylight hours only.

Some components of the project, (e.g., creation of access roads; installation of bracings) would not involve in-water work and therefore are not expected to harass marine mammals. In-air noise from these activities is not a concern in this case as pinnipeds are not known to haul-out near the bridge (see Affected Environment). Therefore, NMFS has preliminary determined that these specified activities do not warrant an authorization and they will not be discussed further.

Action Area

The Antioch Bridge project area includes Caltrans right-of-way (ROW) and temporary construction easements. This area covers approximately 62 acres (ac), including 7.5 ac on the south shore of the San Joaquin River in Contra Costa County, 21 ac of the San Joaquin River, and 33.5 ac on Sherman Island in Sacramento County. On the south side of the river, vegetation is primarily park landscaping, with weedy ruderal vegetation under the existing bridge. A small fringe wetland is found along the San Joaquin River around the bridge.

The San Joaquin River is relatively shallow on the south side, with depths of less than 10–ft out to Pier 11. The main channel extends between Piers 12 and 20, with deep water passage between Piers 19 and 20, near the northern shore. On the north side of the river, Sherman Island supports irrigated pasture and irrigated crops, as well as an area of ruderal vegetation in fallow fields. Mayberry Slough and an irrigation canal cross the area in the vicinity of Piers 39 and 40, and Pier 32, respectively. The waters around the bridge are not heavily used by marine mammals but do provide some foraging habitat for certain pinniped species.

Description of Marine Mammals in the Area of the Specified Activity

The project area lies outside the range of most marine mammal species. The Guadalupe fur seal (*Arctocephalus townsendi*), northern elephant seal (*Mirounga angustirostris*), northern fur-seal (*Callorhinus ursinus*), and northern (Stellar) sea lion (*Eumetopias jubatus*) have distributions that extend northward along the California coast but their ranges do not extend into the bays and estuaries of the Delta. There have been two documented occurrences of humpback whales (*Megaptera novaeangliae*) traveling up the Sacramento River, but these occurrences do not represent the normal behavior patterns of the species. Occurrences of humpback whales have never been documented and are not anticipated at the bridge location.

The only marine mammal species which may be affected by the project are the California sea lion and Pacific harbor seal. Both species have been known to sporadically venture into estuaries and rivers in search of food, and the California Department of Fish and Game (CDFG) indicates that the ranges of these two species encompasses the region of the Delta in which the project occurs.

California Sea Lion

The California sea lion is the most abundant marine mammal in California with an estimated population of 50,000 along the entire California coast and islands. The entire US population has been estimated at 238,000 in 2005, and growing at a rate of approximately 6.52 % annually between 1975 and 2005 (NMFS, 2007). The California stock of sea lions is not listed as depleted under the MMPA or threatened or endangered under the MMPA.

California sea lions exhibit seasonal migration patterns organized around their breeding patterns. The sea lions breed in rookeries in the Channel Islands and Mexico from May through August. Females tend to remain close to the rookeries throughout the year, while males migrate north after the breeding season in the late summer, and then migrate back south to the breeding grounds in the spring (CDFG, 1990).

Sea lions feed on fish and cephalopods, including Pacific whiting, rockfish, anchovy, hake, flat-fish, small sharks, squid, and octopus. Sea lions are often solitary feeders; however they also hunt in groups which can vary in size according to the abundance of prey. Within the action area; sea lions are often solitary.

Main breeding rookeries are found in the Channel Islands. Males haul out on Farallon Island and Ano Nuevo Island throughout the year. Sea lions can be found at sea from the surf zone out to near shore and pelagic waters. On land, the sea lions are found resting and breeding in groups of various sizes, and haul out on rocky surfaces and outcroppings and beaches, as well as manmade structures such as jetties and buoys. Sea lions prefer haulout sites and rookeries near abundant food supplies, with easy access to water; although sea lions occasionally travel up rivers and bays in search of food.

No known haulout sites occur in the vicinity of the bridge. During the designated August 1 to November 30 work window for installing the temporary marine trestle, California sea lions will likely be absent during August, as they are still in the breeding season and will be located further south, in the Channel Islands (CDFG 1990). Beginning in September, the likelihood of sea lions foraging in the San Joaquin River Delta increases, as males are beginning to return from the Channel Island rookeries at this time (CDFG 1990).

Harbor Seals

Harbor seals are the most widely distributed pinniped species, occurring on both sides of the northern Pacific and Atlantic Ocean (NMFS 2005). The Pacific harbor seal ranges from Baja Mexico to the Aleutian Islands, and occurs along the entire length of the California coast. Harbor seal populations in California were estimated at 34,233 in 2005, and have

been growing at an estimated rate of 3.5 % from 1982 to 1995 (NMFS 2005). Harbor seals are not listed as depleted under the MMPA or threatened or endangered under the MMPA.

The breeding season lasts from March through June each year, with peak births occurring between April and May. Females give birth to one pup each year, and mate again shortly after weaning. Harbor seals are not territorial on land, but do maintain spacing between individuals in haul outs.

Harbor seals feed on fish, crustaceans and some cephalopods. Foraging occurs in shallow littoral waters, and common prey items include flounder, sole, hake, codfish, sculpin, anchovy and herring. Harbor seals are typically solitary while foraging, although small groups have been observed. Seals spotted within the action area are usually solitary.

Unlike California sea lions, harbor seals are rarely found in pelagic waters and typically stay within the tidal and intertidal zones. On land, harbor seals haul out on rocky outcrops, mudflats, sandbars and sandy beaches with unrestricted access to water and with minimal human presence. Harbor seals are non-migratory, but will make short to-moderate distance journeys for feeding and breeding needs, including venturing into estuaries and rivers (CDFG 2005).

The area of the Delta where the project occurs falls within the limits of the range of harbor seals; however, no known haulout sites have been identified in the vicinity of the bridge. Potential occurrences of harbor seals would be limited to individuals in search of food upstream into the San Joaquin River.

Potential Effects on Marine Mammals

Sound is a physical phenomenon consisting of minute vibrations that travel through a medium, such as air or water. Sound levels are compared to a reference sound pressure to identify the medium. For air and water, these reference pressures are ''re 20 microPa'' and ''re 1 microPa'', respectively. Sound is generally characterized by several variables, including frequency and sound level. Frequency describes the sound's pitch and is measured in hertz (Hz) or kilohertz (kHz), while sound level describes the sound's loudness and is measured in decibels (dB). Sound level increases or decreases exponentially with each dB of change. For example, 10–dB yields a sound level 10 times more intense than 1 dB, while a 20 dB level equates to 100 times more intense, and a 30 dB level is 1,000 times more intense. However, it should be noted that humans perceive a 10 dB increase in sound level as only a doubling of sound loudness, and a 10 dB decrease in sound level as a halving of sound loudness.

Marine mammals use sound for vital life functions, and introducing sound into their environment could be disrupting to those behaviors. Sound (hearing and vocalization/ echolocation) serves 4 main functions for marine mammals. These functions include (1) providing information about their environment; (2) communication; (3) enabling remote detection of prey; and (4) enabling detection of predators. Noise from pile driving may affect marine mammals at a level which could cause behavioral harassment. The distances to which these sounds are audible depend on source levels, ambient noise levels, and sensitivity of the receptor (Richardson *et al.* 1995). Mitigation measures (see Mitigation section) and the low source level of vibratory pile driving (the main method used to install piles) are expected to prevent injurious exposure.

Pinnipeds produce a wide range of hearing social signals, most occurring at relatively low frequencies (Southall *et al.*, 2007), suggesting hearing is keenest at these frequencies. Pinnipeds communicate acoustically both on land and in the water suggesting they possess amphibious hearing and have difference hearing capabilities dependant upon the media (air or water). Based on numerous studies, as summarized in Southall *et al.* (2007), pinnipeds are more sensitive to a broader range of sound frequencies in water than in air. In-water, pinnipeds can hear frequencies from 75 Hz to 75kHz. In-air, the lower limit remains at 75 Hz but the highest audible frequencies are only around 30kHz (Southall, *et al.*, 2007).

Hearing Impairment

Temporary or permanent hearing impairment is a possibility when marine mammals are exposed to very loud sounds. Hearing impairment is measured in two forms: temporary threshold shift and permanent threshold shift. Relationships between TTS and PTS thresholds have not been studied in marine mammals, but are assumed to be similar to those in humans and other terrestrial mammals. There is no empirical data for onset of PTS in any marine mammal, and therefore, PTS-onset must be estimated from TTS-onset measurements and from the rate of TTS growth with increasing exposure levels above the level eliciting TTS-onset. PTS is presumed to be likely if the threshold is reduced by ≥ 40 dB (i.e., 40 dB of TTS). Due to proposed mitigation measures and source levels, NMFS does not expect that marine mammals will be exposed to levels that could elicit PTS and therefore it will not be discussed further.

Temporary Threshold Shift (TTS)

TTS is the mildest form of hearing impairment that can occur during exposure to a loud sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises and a sound must be louder in order to be heard. TTS can last from minutes or hours to (in cases of strong TTS) days. For sound exposures at or somewhat above the TTS-onset threshold, hearing sensitivity recovers rapidly after exposure to the noise ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals. Southall *et al.* (2007) considers a 6 dB TTS (i.e., baseline thresholds are elevated by 6 dB) sufficient to be recognized as an unequivocal deviation and thus a sufficient definition of TTS-onset. Because it is non-injurious, NMFS considers TTS Level B harassment that is mediated by physiological effects on the auditory system; however, NMFS does not consider onset TTS to be the lowest level at which Level B harassment may occur.

Sound exposures that elicit TTS in pinnipeds underwater have been measured in harbor seals, California sea lions, and northern elephant seals from broadband or octaveband (OBN) non-pulse noise ranging from approximately 12 minutes to several hours (Kastak and Schusterman, 1996; Finneran *et al.*, 2003; Kastak *et al.*, 1999; Kastak *et al.*, 2005). Collectively, Kastak *et al.* (2005) analyzed these data to indicate that in the harbor seal, a TTS of ca. 6 dB occurred with 25 minute exposure to 2.5 kHz OBN with SPL of 152 dB re:1 microPa; the California sea lion showed TTS-onset at 174 dB re: 1 microPa (as summarized in Southall *et al.*, 2007). Underwater TTS experiments involving exposure to pulse noise is limited to a single study. Finneran *et al.* (2003) found no measurable TTS when two California sea lions were exposed to sounds up to 183 dB re: 1 microPa (peak-to-peak).

Behavioral Impacts

The source of underwater noise during construction would be pile driving to construct the temporary work trestle. There are limited data available on the effects of non-pulse noise on pinnipeds in-water; however, field and captive studies to date collectively suggest that pinnipeds do not strongly react to exposures between 90–140 dB re: 1 microPa. Jacobs and Terhune (2002) observed wild harbor seal

reactions to acoustic harassment devices (ADH) around nine sites. Seals came within 44 m of the active ADH and failed to demonstrate any behavioral response when received SPLs were estimated at 120–130 dB re: 1 microPa. In a captive study, a group of seals were collectively subjected to non-pulse sounds (e.g., vibratory pile driving) at 8–16 kHz (Kastelein, 2006). Exposures between 80–107 dB re: 1 microPa did not induce strong behavioral responses; however, a single observation at 100–110 dB re: 1 microPa indicated an avoidance response at this level. The group returned to baseline conditions following exposure (i.e., no long term impact). Southall *et al.* (2007) notes contextual differences between these two studies noting that the captive animals were not reinforced with food for remaining in the noise fields, whereas free-ranging subjects may have been more tolerant of exposures because of motivation to return to a safe location or approach enclosures holding prey items. Southall *et al.* (2007) reviewed relevant data from studies involving pinnipeds exposed to pulse noise (e.g., impact pile driving) and concluded that exposures to 150 to 180 dB re: 1 microPa generally have limited potential to induce avoidance behavior.

Seals and sea lions exposed to threshold level sounds (120 dB for non-pulse; 160 dB for pulse) may elicit temporary avoidance behavior around the bridge, which may affect movement of seals under the bridge or temporarily inhibit them from foraging near the bridge. However, limiting pile driving to one to hours per day would allow for minimal disruption of harbor seal foraging or use of dispersal habitat. Very few sea lions use the South Bay for foraging and no known sea lion haul-outs exist in the South Bay; therefore, impacts are expected to be equally minimal than those of harbor seals.

Based on these studies, NMFS has preliminarily determined that seals and sea lions exposed to threshold level sounds (120 dB for non-pulse; 160 dB for pulse) may elicit temporary pinniped avoidance behavior. The most likely impact to pinnipeds from the pile installation would be temporary disruption of feeding patterns as individual sea lions or harbor seals pass through the area in pursuit of food. However, limiting pile driving to one to two hours per day would allow for minimal disruption of foraging or use of dispersal habitat. No haulouts exist and no pupping or breeding is known to occur on land near the bridge; therefore, no impacts to reproduction or interruption of mom/pup bonding or nursing are anticipated. Temporary hearing loss is possible for those pinnipeds that enter into zone of Level B harassment, but permanent hearing loss or other harm is not anticipated due to monitoring and mitigation efforts, as described below) and low source level of pile driving.

Estimated Take by Incidental Harassment

NMFS typically uses threshold sound levels to estimate takes and establish appropriate mitigation. Current NMFS practice regarding exposure of marine mammals to anthropogenic noise is that in order to avoid injury of marine mammals (e.g., PTS), cetaceans and pinnipeds should not be exposed to impulsive sounds of 180 and 190 dB rms or above, respectively. This level is considered precautionary as it is likely that more intense sounds would be required before injury would actually occur (Southall *et al.*, 2007). As such, Caltrans has proposed safety zones based on hydroacoustical modeling for the pile sizes and type of hammers used for the Dumbarton Bridge project and water depth. The model simulates spherical spreading and uses a transmission constant of 15. Potential for behavioral harassment (Level B) is considered to have occurred when marine mammals are exposed to sounds at or above 160dB rms for impulse sounds (e.g., impact pile driving) and 120dB rms for non-pulse noise (e.g., vibratory pile driving), but below the aforementioned thresholds. These levels are considered precautionary. Estimated distances to NMFS' current harassment threshold levels from pile driving during the proposed action are outlined in Table 1 below.

TABLE 1: UNDERWATER DISTANCES TO NMFS HARASSMENT THRESHOLD LEVELS DURING PILE DRIVING.

Pile Type	Hammer Type	Sound Levels (rms)		
		190 dB	160 dB	120 dB
24“ steel	Impact	16.8 m (55 ft)	1,000 m (3,280 ft)	n/a
24“ steel	Vibratory	n/a	n/a	16.4 km (10.2 miles)

For the impact portion of the trestle pile installation, a source level of 194 dB RMS at 35–ft was used to calculate NMFS level harassment distances. Based on this source level, models estimated that pile installation for the Project could generate sound levels above 190 dB that would extend out about 55–ft from the pile. The calculated distance for sounds above 160 dB (Level B harassment) is approximately 3,300–ft. For the vibratory portion of the trestle pile installation, a source level of 166 dB RMS at 35–ft is assumed; therefore, sound levels above 190 dB would not be reached during the installation of piles by vibratory hammer. The calculated distance for sounds above 120 dB (Level B harassment threshold for non-impulse sounds) would be around 10.2 miles.

Current NMFS practice regarding in-air exposure of pinnipeds to noise generated from human activity is that the onset of Level B harassment for harbor seals and all other pinnipeds is 90 dB_{rms} and 100 dB $_{rms}$ re: 20 micoPa, respectively. In-air noise calculations from pile driving for the Dumbarton Bridge project, which uses the same size and type of piles and hammers, predict that noise levels will be reduced to approximately 83 dB $_{rms}$ re: 20 microPa at 800m. Harbor seals or California sea lions are not known to haul-out anywhere near the Antioch Bridge; therefore, in-air noise is not considered to contribute to harassment for this project.

It is difficult to estimate the number of California sea lions and Pacific harbor seals that could be affected by the installation of piles for the temporary marine trestle, as pinnipeds only sporadically venture into the project area in pursuit of food. Due to the project location lying at the extreme margins of these species' ranges, the number of individual pinnipeds expected to be encountered is very low. Through consultation with NMFS' Southeast Regional Office, Caltrans requests the take of 10 California seal lions. These individuals would most likely be adult males, as the females and pups tend to remain close to the breeding rookeries. Similarly, Caltrans requests, and NMFS' proposes, authorization to take 10 individual

harbor seals incidental to pile driving activities; also likely males in pursuit of food.

Proposed Mitigation

Caltrans has proposed mitigation both in their application and supplemental communication to reduce impact to environmental resources. Measures set in place to protect birds and fish (e.g., using the vibratory hammer at all times except for load bearing tests) also protect marine mammals. The following proposed mitigation measures are designed to eliminate potential for injury and reduce Level B harassment of marine mammals.

Establishment of safety and zones and shut down requirements

Vibratory pile driving does not elicit source levels at or above NMFS' harassment threshold for Level A harassment, therefore, no required shut down zones would be established for vibratory pile driving. The isopleth for the Level A harassment threshold (190 dB) is modeled to be within 55 ft (16.8 m) of the impact pile hammer (see Table 1); however, Caltrans has proposed to delay impact pile driving should a marine mammal come within or approach 100 ft (30 m) of the pile being driven; further reducing the risk of Level A harassment.

Limited use of impact hammer

As a result of Section 7 consultation discussions with NMFS, Caltrans has agreed to drive all temporary piles with a vibratory hammer, to reduce impacts to listed fish, with the exception of one pile per day being ''proofed'' with an impact hammer. Proofing requires approximately 20–40 blows per pile which equates to approximately 15–20 seconds of impact hammering per day. This action would also serve to reduce impacts to marine mammals.

Soft start to pile driving activities

A ''soft start'' technique would be used at the beginning of each pile installation to allow any marine mammal that may be in the immediate area to leave before impact piling reaches full energy. The soft start requires contractors to initiate noise from vibratory hammers for 15 seconds at reduced energy followed by 1–minute waiting period. The procedure would be repeated two additional times. Due to the short duration of impact pile driving (20 seconds), the traditional ramp-up requirement for impact pile driving does not apply as it would actually increase the duration of noise emitted into the environment and monitoring should effectively detect marine mammals within or near the proposed impact pile driving shut down of 100 ft (30 m). If any marine mammal is sighted within or approaching this shut down zone prior to pile-driving, Caltrans would delay pile-driving until the animal has moved outside and on a path away from such zone or after 15 minutes have elapsed since the last sighting of the marine mammal.

Marine Mammal Monitoring

Safety zone monitoring would be conducted during all active pile driving. Monitoring of the 100 ft (30 m) safety zone would be conducted by qualified, NMFS approved marine mammal observers (MMOs). Impact pile driving would not begin until the 100 ft safety zone is clear of marine mammals and would be stopped in the event that marine mammals enter the safety zone. For all pile driving, MMOs would begin monitoring at least 30 minutes prior to the commencement of pile driving and could conduct monitoring from small boats, as observation from a higher vantage point may not be practical. MMOs would remain 50 yards from swimming pinnipeds in accordance with NMFS marine mammal viewing guidelines (*http://swr.nmfs.noaa.gov/psd/rookeryhaulouts/CASEALVIEWBROCHURE.pdf*). This would prevent additional harassment to pinnipeds from the vessel. If a land based monitoring point can be found, MMOs would be stationed here. Observations would be made with binoculars during daylight hours. Data on all observed marine mammals would be recorded and include information such as species, numbers, time of observation, location, and behavior.

Acoustic Monitoring

Monitors would be present to conduct hydro-acoustic monitoring, in order to empirically establish the 190 dB RMS (impulse) safety zone and behavioral harassment zones. Field measurements of sound pressure levels would be recorded and analyzed. A more detailed marine mammal monitoring plan and hydro-acoustic monitoring plan would be made by the monitoring contractor prior to the start of the Antioch Bridge seismic retrofit.

Reporting

NMFS would be notified 2 weeks prior to the initiation of proposed work. Weekly monitoring reports would be sent to NMFS and include information such as species, numbers, time of observation, location, and behavior. Additionally, the report would include an assessment of the number of California sea lions and harbor seals that may have been harassed as a result of pile driving activity, based on direct observation of sea lions and harbor seals observed passing through the area. Should the acoustic monitoring reveal noise level isopleths different than those described here, a modification to the safety zone reflecting those data would occur.

Preliminary Determination

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS preliminarily finds that pile driving associated with the Anitoch Bridge Seismic Retrofit Project would result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the total taking would have a negligible impact on the affected species or stocks. No subsistence hunting of marine mammals occurs in the region; therefore, no impact on the availability of a species or stock for subsistence use would occur.

Endangered Species Act (ESA)

On January 26, 2009, NMFS received a request from Caltrans' to initiate consultation under section 7 of the ESA on its proposed Antioch Bridge Seismic Retrofit Project. NMFS concluded consultation on this action on July 13, 2009 and issued an incidental take statement authorizing the take of listed steelhead and green sturgeon. No ESA-listed marine mammal species occur within the action area; therefore, none would be affected.

National Environmental Policy Act (NEPA)

NOAA Administrative Order Series 216–6, May 20, 1999 (NAO), identifies issuance of IHAs as a type of Federal action that may be categorically excluded from preparation of an environmental assessment or environmental impact statement. In determining whether a categorical exclusion (CE) is appropriate for a given IHA, NMFS must consider: (1) factors listed in Section 5.05b of the NAO regarding prior analysis for the ''same'' action; (2) context and intensity of impacts, as defined in 40 CFR 1508.27; and (3) factors listed in Section 5.05c of the NAO regarding exceptions to CEs. NMFS has prepared, supplemented, or adopted numerous EAs leading to Findings of No Significant Impact (FONSIs) for pile driving activities similar to the proposed activity, including ones for Caltrans' projects which involved driving larger piles in

the northern section of the Bay where pinniped and cetacean species are more abundant. Based on these previous NEPA analyses and the analysis contained within this notice, NMFS has determined that issuance of a one-year IHA to Caltrans for the taking, by Level B harassment only, incidental to the Antioch Bridge Seismic Retrofit project does not have the potential to result in any significant changes to the human environment. Therefore, the issuance of an IHA to Caltrans for the specified activity falls under the category of those actions which can be categorically excluded from the need to prepare an Environmental Assessment or Environmental Impact Statement.

Dated: December 14, 2009.

Helen M. Golde,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9–30179 Filed 12–18–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Hearings for the Draft Environmental Impact Statement/ Overseas Environmental Impact Statement for the Gulf of Alaska Navy Training Activities; Correction

AGENCY: Department of Navy, DoD.

ACTION: Notice; correction.

SUMMARY: The Department of the Navy published a document in the **Federal Register** (74 FR 65761) of December 11, 2009, concerning public hearings on a Draft Environmental Impact Statement/ Overseas Environmental Impact Statement for the Gulf of Alaska Navy Training Activities. The document contained an incorrect date.

FOR FURTHER INFORMATION CONTACT: Naval Facilities Engineering Command Northwest, Attention: Mrs. Amy Burt, Gulf of Alaska Navy Training Activities EIS/OEIS Project Manager, 1101 Tautog Circle, Suite 203, Silverdale, WA 98315–1101; or *http://www.GulfofAlaskaNavyEIS.com.*

Correction

In the **Federal Register** (74 FR 65761) of December 11, 2009, on page 65762, in the first column, correct the fifth paragraph to read:

5. Tuesday, January 12, 2010, at Orca Adventure Lodge Meeting Room & Café, 2500 Orca Road, Cordova, Alaska.

Dated: December 15, 2009.

T. M. Cruz,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. E9–30318 Filed 12–18–09; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 19, 2010.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: December 15, 2009.

James Hyler,

Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: New.

Title: IEPS Fulbright-Hays Group Projects Abroad Customer Surveys.

Frequency: On occasion.

Affected Public: Individuals or households.

Reporting and Recordkeeping Hour Burden:

Responses: 1,829.

Burden Hours: 809.

Abstract: The purpose of this evaluation is to assess the impact of the Group Projects Abroad (GPA) program in enhancing the foreign language capacity of the United States. Three surveys will be conducted: a survey of GPA Project Directors; a survey of 2002–2008 GPA alumni; and a survey of 2009 alumni. Results from the three surveys will inform the writing of a final report determining the impact of the GPA program.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 4182. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* 202–401–0526. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E9–30276 Filed 12–18–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Innovation and Improvement; Overview Information; Excellence in Economic Education Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2010

Catalog of Federal Domestic Assistance (CFDA) Number: 84.215B.

Dates:

Applications Available: December 21, 2009.

Deadline for Transmittal of Applications: February 16, 2010.

Deadline for Intergovernmental Review: April 15, 2010.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: This program promotes economic and financial literacy among all students in kindergarten through grade 12 through the award of one grant to a national nonprofit educational organization that has as its primary purpose the improvement of the quality of student understanding of personal finance and economics.

Priorities: This competition includes two absolute priorities and four invitational priorities that are explained in the following paragraphs.

In accordance with 34 CFR 75.105(b)(2)(iv), these priorities are from sections 5533(b) and 5535(b) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7267b–7267e).

Absolute Priorities: For FY 2010 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3) we consider only applications that meet both of these priorities.

These priorities are:

Absolute Priority 1—Direct Activities

A project must indicate how it would use 25 percent of the funds available each year to do *all* of the following activities:

(a) Strengthen and expand the grantee's relationships with State and local personal finance, entrepreneurial, and economic education organizations.

(b) Support and promote training of teachers who teach a grade from kindergarten through grade 12 regarding economics, including the dissemination of information on effective practices and research findings regarding the teaching of economics.

(c) Support research on effective teaching practices and the development of assessment instruments to document student understanding of personal finance and economics.

(d) Develop and disseminate appropriate materials to foster economic literacy.

Absolute Priority 2—Subgrant Activities

A project must indicate how it would use 75 percent of the funds available each year to award subgrants both to (a) State educational agencies (SEAs) or local educational agencies (LEAs), and (b) State or local economic, personal finance, or entrepreneurial education organizations. (Definitions of SEAs and LEAs are found in section 9101(26) and (41) of the ESEA (20 U.S.C. 7801(26) and (41)).

(a) *Allowable Subgrantee Activities.* A project must indicate that these subgrants are to be used to pay for the Federal share of the cost of enabling the subgrantees to work in partnership with *one or more* eligible partners as described elsewhere in this notice, for *one or more* of the following purposes:

(1) Collaboratively establishing and conducting teacher training programs that use effective and innovative approaches to the teaching of economics, personal finance, and entrepreneurship. The teacher training programs must—

(i) Train teachers who teach a grade from kindergarten through grade 12; and (ii) encourage teachers from disciplines other than economics and financial literacy to participate in such teacher training programs, if the training will promote the economic and financial literacy of those teachers' students.

(2) Providing resources to school districts that desire to incorporate economics and personal finance into the curricula of the schools in those districts.

(3) Conducting evaluations of the impact of economic and financial literacy education on students.

(4) Conducting economic and financial literacy education research.

(5) Creating and conducting school-based student activities to promote consumer, economic, and personal finance education (such as saving, investing, and entrepreneurial education) and to encourage awareness and student academic achievement in economics.

(6) Encouraging replication of best practices to promote economic and financial literacy.

(b) *Eligible partners for subgrantees under Absolute Priority 2.* Applications must indicate that subgrants will be made to an eligible subgrantee to work in partnership with one or more of the following entities:

(1) A private-sector entity.

(2) An SEA.

(3) An LEA.

(4) An institution of higher education.

(5) An organization promoting economic development.

(6) An organization promoting educational excellence.

(7) An organization promoting personal finance or entrepreneurial education.

(c) *Subgrant application process under Absolute Priority 2.* (1) Applications must describe the subgrant process the grantee will conduct prior to awarding subgrants.

(2) Applications must provide that the grantee will invite the following types of individuals to review all applications for subgrants and to make recommendations to the grantee on the approval of the applications:

(A) Leaders in the fields of economics and education.

(B) Other individuals as the grantee determines to be necessary, especially members of the State and local business, banking, and finance communities.

In addition to the two absolute priorities, we are particularly interested in applications that address the following invitational priorities.

Invitational Priorities: For FY 2010 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are invitational priorities. Under 34 CFR 75.105(c)(1) we do not give an application that meets one or more of these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

Invitational Priority 1—Involvement of Business Community

Projects that propose partnerships and linkages with the local business community to advance financial literacy.

Invitational Priority 2—Underrepresented Populations

Projects that propose a plan for addressing the unique needs of low-income or geographically-isolated students, or both, and their teachers.

Invitational Priority 3—Teacher Professional Development

Projects that use technology to provide teachers of K–12 students greater access to professional development opportunities in financial literacy.

Invitational Priority 4—Dissemination of Information

Projects that provide for the dissemination of information on

activities and programs conducted by subgrantees.

Program Authority: 20 U.S.C. 7267.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

II. Award Information

Type of Award: Discretionary grant.
Estimated Available Funds $1,447,000.
Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.
Budget Period: 12 months.

III. Eligibility Information

1. *Eligible Applicants:* Any national nonprofit educational organization that has as its primary purpose the improvement of the quality of student understanding of personal finance and economics through effective teaching of economics in grades kindergarten through grade 12 in the Nation's classrooms.

Applicants are required to submit evidence of their organization's eligibility.

2.a. *Cost Sharing or Matching: Subgrant Activities.* Recipients of each subgrant under this program are required to match the Federal grant funds with an equal amount of non-Federal funding. The Federal share of each subgrant will be fifty (50) percent of the cost of the funded activities. The recipient of the subgrant must pay the other fifty percent in cash or in-kind. In-kind payment, including plant, equipment, or services, must be fairly evaluated. (20 U.S.C. 7267e(a) and (b)).

b. *Supplement-Not-Supplant.* This competition involves supplement-not-supplant funding requirements. Funds provided through this grant must be used to supplement, and not supplant, other Federal, State, and local funds expended to support activities that fulfill the purpose of this program. (20 U.S.C. 7267f).

IV. Application and Submission Information

1. *Address to Request Application Package:* Carolyn Warren, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4W209, Washington, DC 20202–5900. Telephone: (202) 205–5443 or by e-mail: *carolyn.warren@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative [Part III] to no more than 25 pages, using the following standards:

- A ''page'' is 8.5″; x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section [Part III].

3. *Submission Dates and Times:*
Applications Available: December 21, 2009.

Deadline for Transmittal of Applications: February 16, 2010.

Applications for grants under this competition must be submitted electronically using the Electronic Grant Application System (e-Application) accessible through the Department's e-Grants site. For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: April 15, 2010.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* Twenty-five (25) percent of the grant funds must be used for *Direct Activities* as described in Absolute Priority 1. (20 U.S.C. 7267b(b)(1)).

Seventy-five (75) percent of the grant funds must be used for *Subgrant Activities* as described in Absolute Priority 2. (20 U.S.C. 7267b(b)(2)).

The grantee and each subgrantee may use not more than five (5) percent of their grant funds for administrative costs. (20 U.S.C. 7267d(a)).

We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:*

Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications

Applications for grants under the EEE Program—CFDA Number 84.215B must be submitted electronically using e-Application, accessible through the Department's e-Grants Web site at: *http://e-grants.ed.gov.*

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is

provided later in this section under *Exception to Electronic Submission Requirement.*

While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a grant application to us.

Please note the following:

• You must complete the electronic submission of your grant application by 4:30:00 p.m., Washington, DC time, on the application deadline date. E–Application will not accept an application for this competition after 4:30:00 p.m., Washington, DC time, on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.

• The hours of operation of the e-Grants Web site are 6:00 a.m. Monday until 7:00 p.m. Wednesday; and 6:00 a.m. Thursday until 8:00 p.m. Sunday, Washington, DC time. Please note that, because of maintenance, the system is unavailable between 8:00 p.m. on Sundays and 6:00 a.m. on Mondays, and between 7:00 p.m. on Wednesdays and 6:00 a.m. on Thursdays, Washington, DC time. Any modifications to these hours are posted on the e-Grants Web site.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password protected file, we will not review that material.

• Your electronic application must comply with any page limit requirements described in this notice.

• Prior to submitting your electronic application, you may wish to print a copy of it for your records.

• After you electronically submit your application, you will receive an automatic acknowledgment that will include a PR/Award number (an identifying number unique to your application).

• Within three working days after submitting your electronic application, fax a signed copy of the SF 424 to the Application Control Center after following these steps:

(1) Print SF 424 from e-Application.

(2) The applicant's Authorizing Representative must sign this form.

(3) Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the SF 424.

(4) Fax the signed SF 424 to the Application Control Center at (202) 245–6272.

• We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of e-Application Unavailability: If you are prevented from electronically submitting your application on the application deadline date because e-Application is unavailable, we will grant you an extension of one business day to enable you to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

(1) You are a registered user of e-Application and you have initiated an electronic application for this competition; and

(2)(a) E-Application is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) E-Application is unavailable for any period of time between 3:30 p.m. and 4:30:00 p.m., Washington, DC time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgment of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (*see* VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–8930. If e-Application is unavailable due to technical problems with the system and, therefore, the application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-Application. Extensions referred to in this section apply only to the unavailability of e-Application.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through e-Application because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to e-Application; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Carolyn Warren, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4W209, Washington, DC 20202–5900. *FAX:* (202) 205–5630.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications by Mail

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.215B), LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.215B), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this grant notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this competition are from 34 CFR 75.210. The maximum score for each criterion is indicated in parentheses. Each criterion also includes the factors that the reviewers will consider in determining how well an application meets the criterion. The selection criteria are as follows:

(1) *Quality of the Project Design (20 points).* The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(a) The extent to which the proposed project represents an exceptional approach to the priority or priorities established for the competition.

(b) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population.

(2) *Quality of Project Services (30 points).* The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

(a) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(b) The likelihood that the services to be provided by the proposed project will lead to improvements in the achievement of students as measured against rigorous academic standards.

3. *Quality of the Management Plan (20 points).* The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(a) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(b) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

4. *Quality of Project Personnel (10 points).* The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

(a) The qualifications, including relevant training and experience, of the project director.

(b) The qualifications, including relevant training and experience, of key project personnel.

5. *Quality of Project Evaluation (20 points).* The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(a) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(b) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings.

Note: The Department notes that the grantee can, as authorized by section 5533(b)(2)(C) of the ESEA, award subgrants to conduct evaluations and to collect the information needed for implementation of the performance measures discussed elsewhere in this notice.

Factors Applicants May Wish to Consider in Developing an Evaluation Plan. The quality of the evaluation plan is one of the selection criteria by which applications in this competition will be judged. A strong evaluation plan should be used, as appropriate, to shape the development of the project from the beginning of the grant period. The plan should include benchmarks to monitor progress toward specific project objectives and also outcome measures to assess the impact on teaching and learning or other important outcomes for project participants. More specifically, the plan should, where possible, identify the individual and/or organization that has agreed to serve as evaluator for the project and describe the qualifications of that evaluator. The plan should describe the evaluation design, indicating:

(1) What types of data will be collected.

(2) When various types of data will be collected.

(3) What methods will be used.

(4) What instruments will be developed and when.

(5) How the data will be analyzed.

(6) When reports of results and outcomes will be available.

(7) How the applicant will use the information collected through the evaluation to monitor progress of the funded project and to provide

accountability information both about success at the initial site and effective strategies for replication in other settings. Applicants are encouraged to devote an appropriate level of resources to project evaluation.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. In addition, the annual report should, but is not required to, include:

- A summary of activities conducted by subgrantees.
- The number of teachers served through the program, including the number of teachers from schools serving a high concentration of low-income students.
- The number of students served, including those attending schools serving a high concentration of low-income students.

The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to: *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Secretary has established one performance objective and three performance measures to assess the effectiveness of this program. Projects funded under this competition will be expected to collect and report to the Department data related to these measures. Applications should, but are not required to, discuss in the application narrative how they propose to collect these data. The GPRA performance objective is: To increase students' knowledge of, and achievement in, personal finance and economics to enable the students to become more productive and informed citizens. The three GPRA performance measures are: (1) The percentage of students participating in projects funded through the Excellence in Economic Education program who score proficient on standardized tests of economics and/or personal finance; (2) the percentage of teachers participating in projects funded by the Excellence in Economic Education program who show a significant increase in their pre-post scores on a standardized measure of economic content knowledge; and (3) the percentage of students participating in entrepreneurial projects funded by the Excellence in Economic Education program who show a significant increase in their pre-post scores on a standardized measure.

Applicants should provide in the application a baseline for each performance measure and the target number of students they anticipate will be either proficient on the measure or demonstrate a significant increase in their pre-post scores on a standardized measure.

The grantee under this program will be expected to collect and report these data to the Department in the annual performance report, and applicants are strongly encouraged to design their proposed project evaluations around these performance measures.

Applicants are encouraged to propose ambitious but realistic targets. The Department will use this information to closely monitor the implementation of project activities, student and teacher outcomes.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Carolyn Warren, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W209, Washington, DC 20202–5900. *Telephone:* (202) 205–5443 or by *e-mail: carolyn.warren@ed.gov.*

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: December 16, 2009.

James H. Shelton, III,

Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. E9–30290 Filed 12–18–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13441–000]

FFP Iowa 3, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

December 14, 2009.

On April 30, 2009, FFP Iowa 3, LLC filed an application pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Mississippi River Lock and Dam No. 16 Water Power Project (Lock & Dam 16 Project) to be located at River Mile 457.2 on the Mississippi River near the town of Muscatine in Muscatine County, Iowa, and Rock Island County, Illinois.

The proposed Lock & Dam 16 Project would be located at the existing U.S. Army Corps of Engineers Lock & Dam No. 16 and would consist of: (1) Twenty six 760-kilowatt (kW) Very Low Head (VHL) generating units with a combined capacity of 19.7 megawatts (MW) to be installed integral with the dam, and one hundred 35-kW hydrokinetic generating units with a combined capacity of 3.5 MW to be installed in the Mississippi River in an area just downstream of the dam; and (2) a new 11,000 foot-long, 69-kilovolt (or greater) transmission line connected to an existing above-ground local distribution system. The project would have an estimated average annual generation of 96,400 megawatt-hours.

Applicant Contact: Mr. Daniel R. Irvin, Free Flow Power Corporation, 33 Commercial Street, Gloucester, MA 01930, (978) 252–7631.

FERC Contact: Patrick Murphy, (202) 502–8755.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings, please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13441) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–30237 Filed 12–18–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

December 14, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER98–1643–014.

Applicants: Portland General Electric Company.

Description: Portland General Electric Company submits response to FERC 11/17/09 letter requesting additional information re PGE's 9/4/09 change in status filing.

Filed Date: 12/10/2009.

Accession Number: 20091210–4003.

Comment Date: 5 p.m. Eastern Time on Thursday, December 31, 2009.

Docket Numbers: ER04–1215–003.

Applicants: Anthracite Power and Light Company.

Description: Anthracite Power and Light Company submits Notice of Change in Status and Appendix A.

Filed Date: 12/10/2009.

Accession Number: 20091211–0193.

Comment Date: 5 p.m. Eastern Time on Thursday, December 31, 2009.

Docket Numbers: ER09–1397–001.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits an unexecuted, revised Service Agreement for Network Integration Transmission Service *etc.*

Filed Date: 12/10/2009.

Accession Number: 20091211–0180.

Comment Date: 5 p.m. Eastern Time on Thursday, December 31, 2009.

Docket Numbers: ER10–147–002.

Applicants: Great River Energy.

Description: Great River Energy *et al.* submits revised tariff sheets to correct a reference in tariff sheets previously filed.

Filed Date: 12/10/2009.

Accession Number: 20091211–0181.

Comment Date: 5 p.m. Eastern Time on Thursday, December 31, 2009.

Docket Numbers: ER10–37–001.

Applicants: Idaho Power Company.

Description: Idaho Power submits the Exchange Agreement with appreciate designations required by Section 35.9 of the Commission's Regulations.

Filed Date: 12/11/2009.

Accession Number: 20091211–0192.

Comment Date: 5 p.m. Eastern Time on Friday, January 01, 2010.

Docket Numbers: ER10–47–002.

Applicants: Geodyne Energy, LLC.

Description: Geodyne Energy, LLC submits an amended filing of the Petition for Acceptance of Rate Schedule *etc.*

Filed Date: 12/11/2009.

Accession Number: 20091211–0200.

Comment Date: 5 p.m. Eastern Time on Friday, January 01, 2010.

Docket Numbers: ER10–62–001.

Applicants: ISO New England Inc.

Description: ISO New England Inc. *et al.* submits a compliance filing which incorporates into the ISO's Financial Assurance Policy *etc.*

Filed Date: 12/10/2009.

Accession Number: 20091211–0055.

Comment Date: 5 p.m. Eastern Time on Thursday, December 31, 2009.

Docket Numbers: ER10–401–000.

Applicants: Asset and Energy Cost Saving Cooperative.

Description: Customized Energy Solutions, Ltd submits petition for acceptance of initial rate schedule, waivers and blanket authority of Asset and Energy Cost Saving Cooperative.

Filed Date: 12/11/2009.

Accession Number: 20091211–0196.

Comment Date: 5 p.m. Eastern Time on Friday, January 01, 2010.

Docket Numbers: ER10–402–000.

Applicants: FPL Energy Illinois Wind, LLC.

Description: FPL Energy Illinois Wind, LLC submits application for authorization to make market-based sales of energy, capacity and certain ancillary services under a market-based rate tariff.

Filed Date: 12/10/2009.

Accession Number: 20091211–0178.

Comment Date: 5 p.m. Eastern Time on Thursday, December 31, 2009.

Docket Numbers: ER10–407–000.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Company submits for filing and acceptance a Notice of Termination of the Service Agreement for Wholesale Distribution Service and a prior Interconnection Agreement *etc.*

Filed Date: 12/10/2009.

Accession Number: 20091211–0053.

Comment Date: 5 p.m. Eastern Time on Thursday, December 31, 2009.

Docket Numbers: ER10–408–000.

Applicants: American Electric Power Service Corporation.

Description: American Electric Power Texas North Company submits an executed Interconnection Agreement between American Electric Power Texas North Company and Electric Transmission, LLC.

Filed Date: 12/10/2009.

Accession Number: 20091211–0052.

Comment Date: 5 p.m. Eastern Time on Thursday, December 31, 2009.

Docket Numbers: ER10–411–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool submits executed Large Generator Interconnection Agreement between SPP, Golden Spread Electric Cooperative, Inc., *et al.*

Filed Date: 12/10/2009.

Accession Number: 20091211–0179.

Comment Date: 5 p.m. Eastern Time on Thursday, December 31, 2009.

Docket Numbers: ER10–412–000.

Applicants: PJM Interconnection, LLC.

Description: PJM Interconnection, LLC submits notice of cancellation of Original Service Agreement No. 2273 between PJM, Calvert Cliffs 3 Nuclear Project, LLC, *et al.*

Filed Date: 12/11/2009.

Accession Number: 20091211–0199.

Comment Date: 5 p.m. Eastern Time on Friday, January 01, 2010.

Docket Numbers: ER10–413–000.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation submits an informational filing to provide notice regarding the ISO's revised transmission access charges effective 2/27/08 through 3/31/09.

Filed Date: 12/11/2009.

Accession Number: 20091211–0198.

Comment Date: 5 p.m. Eastern Time on Friday, January 01, 2010.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES10–14–000.

Applicants: Kansas Gas and Electric Company.

Description: Application of Kansas Gas and Electric Company under Section 204 for Short Term Debt Authority.

Filed Date: 12/14/2009.

Accession Number: 20091214–5004.

Comment Date: 5 p.m. Eastern Time on Monday, January 04, 2010.

Docket Numbers: ES10–15–000.

Applicants: Kansas Gas and Electric Company.

Description: Application of Kansas Gas and Electric Company under Section 204 for Short Term Guaranty and Pledge Authority.

Filed Date: 12/14/2009.

Accession Number: 20091214–5005.

Comment Date: 5 p.m. Eastern Time on Monday, January 04, 2010.

Docket Numbers: ES10–16–000.

Applicants: Westar Energy, Inc.

Description: Application of Westar Energy, Inc. under Section 204 for Short Term Debt Authority.

Filed Date: 12/14/2009.

Accession Number: 20091214–5006.

Comment Date: 5 p.m. Eastern Time on Monday, January 04, 2010.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA08–52–007.

Applicants: New York Independent System Operator, Inc.

Description: New York Transmission Owners *et al.* submits revisions to Attachment Y of the NYISO's Open Access Transmission Tariff.

Filed Date: 12/11/2009.

Accession Number: 20091211–0195.

Comment Date: 5 p.m. Eastern Time on Friday, January 01, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–30217 Filed 12–18–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

December 11, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER00–1814–008.

Applicants: Avista Turbine Power, Inc.

Description: Avista Turbine Power, Inc submits a revised market-based rate tariff that includes the Limitation and Exemption section to be authorized for the affiliate transaction sought *etc.*

Filed Date: 12/08/2009.

Accession Number: 20091210–0053.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 29, 2009.

Docket Numbers: ER05–1482–004, ER98–4540–017, ER94–1188–048, ER99–1623–017, ER07–1199–003, ER09–1505–002, ER98–1279–018.

Applicants: Kentucky Utilities Company, LG&E Energy Marketing Inc., Louisville Gas & Electric Company, Western Kentucky Energy Corporation, Stony Creek Wind Farm, LLC, Electric Energy Inc., Munnsville Wind Farm, LLC.

Description: Non-material notice of change in status filing pursuant to 18 CFR 35.42(d) Q3 2009.

Filed Date: 12/10/2009.

Accession Number: 20091210–5109.

Comment Date: 5 p.m. Eastern Time on Thursday, December 31, 2009.

Docket Numbers: ER06–972–003.

Applicants: Thornwood Management Company, LLC.

Description: Thornwood Management Company, LLC submits revisions to its market based rate schedule to add provisions for the sale of ancillary services and to reflect the tariff language adopted by the FERC.

Filed Date: 12/08/2009.

Accession Number: 20091210–0137.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 29, 2009.

Docket Numbers: ER08–54–015.

Applicants: ISO New England Inc., New England Power Pool.

Description: Report of ISO New England Inc. Regarding the Implementation of Market Rule Changes to Permit Non-Generating Resources to Participate in the Regulation Market.

Filed Date: 12/09/2009.

Accession Number: 20091209–5082.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 30, 2009.

Docket Numbers: ER10–117–001.

Applicants: North American Power and Gas.

Description: North American Power and Gas, LLC submits Amended Petition for Acceptance of initial Tariff, Waivers and Blanket Authority.

Filed Date: 12/09/2009.

Accession Number: 20091210–0055.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 30, 2009.

Docket Numbers: ER10–379–000.

Applicants: Just Energy (U.S.) Corp.

Description: Just Energy Corp submits a FERC Electric Tariff, Original Volume 1.

Filed Date: 12/09/2009.
Accession Number: 20091210–0054.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 30, 2009.

Docket Numbers: ER10–386–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc submits proposed revisions to its Open Access Transmission, Energy and Operating Reserve Markets Tariff.
Filed Date: 12/04/2009.
Accession Number: 20091207–0204.
Comment Date: 5 p.m. Eastern Time on Monday, December 28, 2009.

Docket Numbers: ER10–387–000.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits compliance filing to the Transmission Owner Tariff Transmission Access Charge Balancing Account Adjustment.
Filed Date: 12/04/2009.
Accession Number: 20091207–0203.
Comment Date: 5 p.m. Eastern Time on Monday, December 28, 2009.

Docket Numbers: ER10–388–000.
Applicants: Tampa Electric Company.
Description: Tampa Electric Company submits Service Schedule C for inclusion in the agreement for Interchange Service with Florida Municipal Power Agency.
Filed Date: 12/04/2009.
Accession Number: 20091207–0202.
Comment Date: 5 p.m. Eastern Time on Monday, December 28, 2009.

Docket Numbers: ER10–395–000.
Applicants: Covanta Plymouth Renewable Energy Limited Partnership.
Description: Covanta Plymouth Renewable Energy Limited Partnership submits for acceptance the initial FERC Electric Tariff, Original Volume 1, to be effective 2/8/10.
Filed Date: 12/09/2009.
Accession Number: 20091211–0051.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 30, 2009.

Docket Numbers: ER10–399–000.
Applicants: Central Hudson Gas & Electric Corp.
Description: Central Hudson Gas and Electric Corporation submits revisions to its Rate Schedule FERC 202 of the Ninth Revised Sheet 9 *et al.*
Filed Date: 12/09/2009.
Accession Number: 20091210–0052.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 30, 2009.

Docket Numbers: ER10–400–000.
Applicants: MidAmerican Energy Company.
Description: MidAmerican Energy Company submits an amended Electronic Interconnection Agreement with Northwest Iowa Power Cooperative, dated 9/30/09.
Filed Date: 12/09/2009.
Accession Number: 20091210–0051.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 30, 2009.

Docket Numbers: ER10–403–000.
Applicants: Covanta Plymouth Renewable Energy Limited.
Description: Covanta Plymouth Renewable Energy Limited Partnership submits Notice of Cancellation of its Rate Schedule FERC 2.
Filed Date: 12/09/2009.
Accession Number: 20091210–0136.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 30, 2009.

Docket Numbers: ER10–404–000.
Applicants: Duke Energy Ohio, Inc.
Description: Duke Energy Ohio, Inc submits Memorandum of Understanding with Buckeye Power, Inc *et al.*
Filed Date: 12/09/2009.
Accession Number: 20091210–0139.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 30, 2009.

Docket Numbers: ER10–405–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits revised rate sheets to the Standard Large Generator Interconnection Agreement and the Service Agreement for Wholesale Distribution Service Agreement *etc.*
Filed Date: 12/10/2009.
Accession Number: 20091210–0138.
Comment Date: 5 p.m. Eastern Time on Thursday, December 31, 2009.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES10–2–002.
Applicants: Allegheny Energy Supply Company, LLC.
Description: Trans-Allegheny Interstate Line Company Amendment to Section 204 Application.
Filed Date: 12/09/2009.
Accession Number: 20091209–5092.
Comment Date: 5 p.m. Eastern Time on Monday, December 21, 2009.

Docket Numbers: ES10–8–001.
Applicants: Interstate Power & Light Company.
Description: Alliant Energy Corporate Services, Inc. Revised Exhibits B, C D and E.
Filed Date: 12/08/2009.
Accession Number: 20091208–5086.
Comment Date: 5 p.m. Eastern Time on Friday, December 18, 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 dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–30218 Filed 12–18–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR09–17–002]

Humble Gas Pipeline Company; Notice of Compliance Filing

December 14, 2009.

Take notice that on November 30, 2009, Humble Gas Pipeline Company filed a Statement of Operating Conditions, including a Statement of Rates summary page, pursuant to section 284.123(e) of the Commission's regulations and to comply with the Commission's letter order issued on November 11, 2009, in Docket Nos. PR09–17–000 and PR09–17–001.

Any person desiring to participate in this proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern time on Wednesday, December 23, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–30234 Filed 12–18–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–80–000]

Three Buttes Windpower, LLC; Notice of Filing

December 14, 2009.

Take notice that, on December 9, 2009, Three Buttes Windpower, LLC filed to supplement its filing in the above captioned docket with information required under the Commission's regulations. Such filing served to reset the filing date in this proceeding.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on December 30, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–30236 Filed 12–18–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–395–000]

Covanta Plymouth Renewable Energy, Limited Partnership; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

December 14, 2009.

This is a supplemental notice in the above-referenced proceeding of Covanta Plymouth Renewable Energy Limited Partnership's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 4, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–30235 Filed 12–18–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–379–000]

Just Energy (U.S.) Corp.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

December 14, 2009.

This is a supplemental notice in the above-referenced proceeding of Just Energy (U.S.) Corp.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 4, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–30238 Filed 12–18–09; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9094–2; Docket ID No. EPA–HQ–ORD–2009–0791]

Draft Toxicological Review of Trichloroethylene: In Support of the Summary Information in the Integrated Risk Information System (IRIS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Listening Session; correction.

SUMMARY: The Environmental Protection Agency published a document in the **Federal Register** on December 11, 2009, concerning a listening session to be held during a public comment period for the external review draft document entitled ''Toxicological Review of Trichloroethylene: In Support of Summary Information on the Integrated Risk Information System (IRIS).''

FOR FURTHER INFORMATION CONTACT: Christine Ross, IRIS Staff, National Center for Environmental Assessment, (8601P), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; *telephone:* 703–347–8592; *facsimile:* 703–347–8689; or *e-mail: ross.christine@epa.gov.*

Correction

In the **Federal Register** of December 11, 2009, in FR Doc. -9091–1, on page 65775, in the first, second, and third columns correct the dates to read:

SUMMARY: EPA is announcing a listening session to be held on January 26, 2010, during the public comment period for the external review draft document entitled, ''Toxicological Review of Trichloroethylene: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' (EPA/635/R–09/011A).

DATES: The listening session on the draft IRIS health assessment for trichloroethylene will be held on January 26, 2010, beginning at 9 a.m. and ending at 4 p.m., Eastern Standard Time. If you want to make a presentation at the listening session, you should register by January 19, 2010, indicate that you wish to make oral comments at the session, and indicate the length of your presentation. If no speakers have registered by January 19, 2010, the listening session will be cancelled and EPA will notify those registered of the cancellation.

ADDRESSES: To attend the listening session, register by Tuesday, January 19, 2010, via the Internet at *https://www2.ergweb.com/projects/conferences/peerreview/register-tce.htm.*

Dated: December 14, 2009.

Rebecca Clark,

Acting Director, National Center for Environmental Assessment.

[FR Doc. E9–30257 Filed 12–18–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[WT Docket No. 08–165; FCC 09–99]

Petition for Declaratory Ruling To Clarify Provisions of Section 332(c)(7)(B) To Ensure Timely Siting Review and To Preempt Under Section 253 State and Local Ordinances That Classify All Wireless Siting Proposals as Requiring a Variance

AGENCY: Federal Communications Commission.

ACTION: Declaratory ruling.

SUMMARY: In this document, the Commission addresses a Petition for Declaratory Ruling (Petition) filed by CTIA—The Wireless Association® (CTIA) seeking clarification of provisions in Sections 253 and 332(c)(7) of the Communications Act of 1934, as amended (Communications Act), regarding State and local review of

wireless facility siting applications. Because delays in the zoning process have hindered the deployment of new wireless infrastructure, the Commission defines timeframes for State and local action on wireless facilities siting requests, while also preserving the authority of States and localities to make the ultimate determination on local zoning and land use policies. The intended effect of the ruling is to promote the deployment of broadband and other wireless services by reducing delays in the construction and improvement of wireless networks.

DATES: Effective November 18, 2009.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Angela Kronenberg, Spectrum & Competition Policy Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Declaratory Ruling* (*Ruling*) in WT Docket No. 08–165 released November 18, 2009. The complete text of the *Ruling* is available for public inspection and copying from 8 a.m. to 4:30 p.m. Monday through Thursday or from 8 a.m. to 11:30 a.m. on Friday at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The *Ruling* may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–488–5300, facsimile 202–488–5563, or you may contact BCPI at its Web site: *http://www.BCPIWEB.com.* When ordering documents from BCPI please provide the appropriate FCC document number, FCC 09–99. The *Ruling* is also available on the Internet at the Commission's website through its Electronic Document Management System (EDOCS): *http://hraunfoss.fcc.gov/edocs_public/SilverStream/Pages/edocs.html.*

Paperwork Reduction Act of 1995 Analysis: Document FCC 09–99 does not contain new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, it does not contain any new or modified ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198. *See* 47 U.S.C. 3506(c)(4).

Synopsis

I. Introduction

1. On July 11, 2008, CTIA (Petitioner) filed its Petition requesting that the Commission issue a Declaratory Ruling clarifying provisions in sections 253 and 332(c)(7) of the Communications Act regarding the timeframes in which zoning authorities must act on siting requests for wireless towers or antenna sites, their power to restrict competitive entry by multiple providers in a given area, and their ability to impose certain procedural requirements on wireless service providers. In the *Ruling,* the Commission grants the Petition in part and denies it in part to ensure that both localities and service providers may have an opportunity to make their case in court, as contemplated by section 332(c)(7) of the Act.

II. Discussion

2. In the *Ruling,* the Commission finds it has the authority to interpret section 332(c)(7), and it addresses the three issues raised in the Petition. On the first issue, the Commission concludes that it should define what constitutes a presumptively ''reasonable period of time'' beyond which inaction on a personal wireless service facility siting application will be deemed a ''failure to act.'' The Commission then determines that in the event a State or local government fails to act within the appropriate time period, the applicant is entitled to bring an action in court under section 332(c)(7)(B)(v). At that point, the State or local government will have the opportunity to present to the court arguments to show that additional time would be reasonable, given the nature and scope of the siting application at issue. The Commission next concludes that the record supports setting the time limits at 90 days for State and local governments to process collocation applications, and 150 days for them to process applications other than collocations. On the second issue raised by the Petition, the Commission finds that it is a violation of section 332(c)(7)(B)(i)(II) for a State or local government to deny a personal wireless service facility siting application solely because that service is available from another provider. On the third issue, because the Petitioner has not presented any evidence of a specific controversy, the Commission denies the request that it find that a State or local regulation that explicitly or effectively requires a variance or waiver for every wireless facility siting violates section 253(a). Finally, the Commission addresses other issues raised in the record, including dismissal of a Cross-Petition filed by the EMR Policy Institute (EMRPI) that, *inter alia,* seeks a declaratory ruling relating to the Commission's regulations regarding exposure to radio frequency (RF) emissions.

3. *Time for Acting on Facility Siting Applications.* Section 332(c)(7)(B)(ii) of the Communications Act states that State or local governments must act on requests for personal wireless service facility sitings ''within a reasonable period of time.'' Section 332(c)(7)(B)(v) further provides that ''[a]ny person adversely affected by any final action or failure to act'' by a State or local government on a personal wireless service facility siting application ''may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction.''

4. The Commission finds that the evidence in the record demonstrates that personal wireless service providers have often faced lengthy and unreasonable delays in the consideration of their facility siting applications, and that the persistence of such delays is impeding the deployment of advanced and emergency services. To provide guidance, remove uncertainty and encourage the expeditious deployment of wireless broadband services, the Commission therefore determines that it is in the public interest to define the time period after which an aggrieved party can seek judicial redress for a State or local government's inaction on a personal wireless service facility siting application. Specifically, the Commission finds that a ''reasonable period of time'' is, presumptively, 90 days to process personal wireless service facility siting applications requesting collocations, and, also presumptively, 150 days to process all other applications. Accordingly, if State or local governments do not act upon applications within those timeframes, then a ''failure to act'' has occurred and personal wireless service providers may seek redress in a court of competent jurisdiction within 30 days, as provided in section 332(c)(7)(B)(v). The State or local government, however, will have the opportunity to rebut the presumption of reasonableness.

5. The Commission finds that the record shows that unreasonable delays are occurring in a significant number of cases. For example, the Commission references data that the Petitioner compiled from its members showing certain personal wireless service facility siting applications had been pending final action for more than one year, and some more than 3 years. In addition, the Commission references several wireless providers who supplemented the record

with their individual experiences in the personal wireless service facility siting application process. The Commission states that the record evidence demonstrates that unreasonable delays in the personal wireless service facility siting applications process have obstructed the provision of wireless services. Many wireless providers have faced lengthy and costly processing. The Commission disagrees with State and local government commenters that argue that the Petition fails to provide any credible or probative evidence that any local government is engaged in delay with respect to processing personal wireless service facility siting applications, and that there is insufficient evidence on the record as a whole to justify Commission action. To the contrary, given the extensive statistical evidence provided by the Petitioner and supporting commenters, and the absence of more than isolated anecdotes in rebuttal, the Commission finds that the record amply establishes the occurrence of significant instances of delay.

6. The Commission states that delays in the processing of personal wireless service facility siting applications are particularly problematic as consumers await the deployment of advanced wireless communications services, including broadband services, in all geographic areas in a timely fashion. Wireless providers currently are in the process of deploying broadband networks which will enable them to compete with the services offered by wireline companies. State and local practices that unreasonably delay the siting of personal wireless service facilities threaten to undermine achievement of Commission goals and impede the promotion of advanced services and competition deemed critical by Congress. In addition, the Commission states that deployment of facilities without unreasonable delay is vital to promote public safety, including the availability of wireless 911, throughout the nation.

7. Given the evidence of unreasonable delays and the public interest in avoiding such delays, the Commission concludes that it should define the statutory terms ''reasonable period of time'' and ''failure to act'' in order to clarify when an adversely affected service provider may take a dilatory State or local government to court. Specifically, the Commission finds that when a State or local government does not act within a ''reasonable period of time'' under section 332(c)(7)(B)(i)(II), a ''failure to act'' occurs within section 332(c)(7)(B)(v). And because an ''action or failure to act'' is the statutory trigger for seeking judicial relief, the Commission's clarification of these terms will give personal wireless service providers certainty as to when they may seek redress for inaction on an application. The Commission expects that such certainty will enable personal wireless service providers more vigorously to enforce the statutory mandate against unreasonable delay that impedes the deployment of services that benefit the public. At the same time, the Commission's action will provide guidance to State and local governments as to what constitutes a reasonable timeframe in which they are expected to process applications, but recognizes that certain cases may legitimately require more processing time.

8. By defining the period after which personal wireless service providers have a right to seek judicial relief, the Commission both ensures timely State and local government action and preserves incentives for providers to work cooperatively with them to address community needs. Wireless providers will have the incentive to resolve legitimate issues raised by State or local governments within the timeframes defined as reasonable, or they will incur the costs of litigation and may face additional delay if the court determines that additional time was, in fact, reasonable under the circumstances. Similarly, State and local governments will have a strong incentive to resolve each application within the timeframe defined as reasonable, or they will risk issuance of an injunction granting the application. In addition, specific timeframes for State and local government deliberations will allow wireless providers to better plan and allocate resources. The Commission states that this is especially important as providers plan to deploy their new broadband networks.

9. The Commission rejects the Petition's proposals that the Commission go farther and either deem an application granted when a State or local government has failed to act within a defined timeframe or adopt a presumption that the court should issue an injunction granting the application. Section 332(c)(7)(B)(v) states that when a failure to act has occurred, aggrieved parties should file with a court of competent jurisdiction within 30 days and that ''[t]he court shall hear and decide such action on an expedited basis.'' The provision indicates Congressional intent that courts should have the responsibility to fashion appropriate case-specific remedies. As the Petitioner notes, many courts have issued injunctions granting applications upon finding a violation of section 332(c)(7)(B). However, the case law does not establish that an injunction granting the application is always or presumptively appropriate when a ''failure to act'' occurs. To the contrary, in those cases where courts have issued such injunctions upon finding a failure to act within a reasonable time, they have done so only after examining all the facts in the case. While the Commission agrees that injunctions granting applications may be appropriate in many cases, the proposals in personal wireless service facility siting applications and the surrounding circumstances can vary greatly. It is therefore important for courts to consider the specific facts of individual applications and adopt remedies based on those facts.

10. The Commission also disagrees with commenters that argue that the statutory scheme precludes the Commission from interpreting the terms ''reasonable period of time'' and ''failure to act'' by reference to specific timeframes. Given the opportunities that the Commission has built into the process for ensuring individualized consideration of the nature and scope of each siting request, the Commission finds their arguments unavailing. Congress did not define either ''reasonable period of time'' or ''failure to act'' in the Communications Act. The term ''reasonable'' is ambiguous and courts owe substantial deference to the interpretation that the Commission accords to ambiguous terms. The Commission found in the local cable franchising context that the term ''unreasonably refuse to award'' a local franchise authorization in section 621(a)(1) of the Communications Act is ambiguous and subject to the Commission's interpretation. As in the local franchising context, it is not clear from the Communications Act what is a reasonable period of time to act on an application or when a failure to act occurs. By defining timeframes, the Commission states it will lend clarity to these provisions, giving wireless providers and State and local zoning authorities greater certainty in knowing what period of time is ''reasonable,'' and ensuring that the point at which a State or local authority ''fails to act'' is not left so ambiguous that it risks depriving a wireless siting applicant of its right to redress.

11. The Commission's construction of the statutory terms ''reasonable period of time'' and ''failure to act'' takes into account, on several levels, the section 332(c)(7)(B)(ii) requirement that the ''nature and scope'' of the request be considered and the legislative history's

indication that Congress intended the decisional timeframe to be the ''usual period'' under the circumstances for resolving zoning matters. First, the timeframes the Commission defines are based on actual practice as shown in the record. Most statutes and government processes discussed in the record already conform to the timeframes the Commission defines in the *Ruling.* As such, the timeframes do not require State and local governments to give preferential treatment to personal wireless service providers over other types of land use applications. Second, the Commission considers the nature and scope of the request by defining a shorter timeframe for collocation applications, consistent with record evidence that collocation applications generally are considered at a faster pace than other tower applications. Third, under the regime that the Commission adopts, the State or local authority will have the opportunity, in any given case that comes before a court, to rebut the presumption that the established timeframes are reasonable. Finally, the Commission has provided for further adjustments to the presumptive deadlines in order to ensure that the timeframes accommodate certain contingencies that may arise in individual cases, including where the applicant and the State or local authority agree to extend the time, where the application has already been pending for longer than the presumptive timeframe as of the date of the *Ruling,* and where the application review process has been delayed by the applicant's failure to submit a complete application or to file necessary additional information in a timely manner. For all these reasons, the Commission concludes that the Commission's clarification of the broad terms ''reasonable period of time'' and ''failure to act'' is consistent with the statutory scheme.

12. The Petition proposes a 45-day timeframe for collocation applications and a 75-day timeframe for all other applications. While the Commission recognizes that many applications can and perhaps should be processed within the timeframes proposed by the Petitioner, the Commission is concerned that these timeframes may be insufficiently flexible for general applicability. In particular, some applications may reasonably require additional time to explore collaborative solutions among the governments, wireless providers, and affected communities. Also, State and local governments may sometimes need additional time to prepare a written explanation of their decisions as required by section 332(c)(7)(B)(iii), and the timeframes as proposed may not accommodate reasonable, generally applicable procedural requirements in some communities. Although the reviewing court will have the opportunity to consider such unique circumstances in individual cases, the Commission states that it is important for purposes of certainty and orderly processing that the timeframes for determining when suit may be brought in fact accommodate reasonable processes in most instances.

13. Based on the Commission's review of the record as a whole, it finds 90 days to be a generally reasonable timeframe for processing collocation applications and 150 days to be a generally reasonable timeframe for processing applications other than collocations. Thus, a lack of a decision within these timeframes presumptively constitutes a failure to act under section 332(c)(7)(B)(v). The Commission finds that collocation applications can reasonably be processed within 90 days. Collocation applications are easier to process than other types of applications as they do not implicate the effects upon the community that may result from new construction. In particular, the addition of an antenna to an existing tower or other structure is unlikely to have a significant visual impact on the community. Therefore, many jurisdictions do not require public notice or hearings for collocations. In addition, several State statutes already require application processing for collocations within 90 days. For purposes of this standard, an application is a request for collocation if it does not involve a ''substantial increase in the size of a tower'' as defined in the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas, 47 CFR part 1, Appendix B. Such a limitation will help to ensure that State and local governments will have a reasonable period of time to review those applications that may require more extensive consideration.

14. The Commission further finds that the record shows that a 150-day processing period for applications other than collocations is a reasonable standard that is consistent with most statutes and local processes. Based on the record, the Commission does not agree that the its imposition of the 90-day and 150-day timeframes will disrupt many of the processes State and local governments already have in place for personal wireless service facility siting applications.

15. Section 332(c)(7)(B)(v) provides that an action for judicial relief must be brought ''within 30 days'' after a State or local government action or failure to act. Thus, if a failure to act occurs 90 days (for a collocation) or 150 days (in other cases) after an application is filed, any court action must be brought by day 120 or 180 on penalty of losing the ability to sue. The Commission concludes that a rigid application of the cutoff to cases where the parties are working cooperatively toward a consensual resolution would be contrary to both the public interest and Congressional intent. Accordingly, the Commission clarifies that a ''reasonable period of time'' may be extended beyond 90 or 150 days by mutual consent of the personal wireless service provider and the State or local government, and that in such instances, the commencement of the 30-day period for filing suit will be tolled.

16. To the extent existing State statutes or local ordinances set different review periods than the Commission does in the *Ruling,* the Commission clarifies that its interpretation of section 332(c)(7) is independent of the operation of these statutes or ordinances. Thus, where the review period in a State statute or local ordinance is shorter than the 90-day or 150-day period, the applicant may pursue any remedies granted under the State or local regulation when the applicable State or local review period has lapsed. However, the applicant must wait until the 90-day or 150-day review period has expired to bring suit for a ''failure to act'' under section 332(c)(7)(B)(v). Conversely, if the review period in the State statute or local ordinance is longer than the 90-day or 150-day review period, the applicant may bring suit under section 332(c)(7)(B)(v) after 90 days or 150 days, subject to the 30-day limitation period on filing, and may consider pursuing any remedies granted under the State or local regulation when that applicable time limit has expired. Of course, the option is also available in these cases to toll the period under section 332(c)(7) by mutual consent.

17. The Commission further concludes that given the ambiguity that has prevailed as to when a failure to act occurs, it is reasonable to give State and local governments an additional period to review currently pending applications before an applicant may file suit. Accordingly, as a general rule, for currently pending applications the Commission deems that a ''failure to act'' will occur 90 days (for collocations) or 150 days (for other applications) after the release of the *Ruling.* The

Commission recognizes, however, that some applications have been pending for a very long period, and that delaying resolution for an additional 90 or 150 days may impose an undue burden on the applicant. Therefore, a party whose application has been pending for the applicable timeframe that the Commission establishes or longer as of the release date of the *Ruling* may, after providing notice to the relevant State or local government, file suit under section 332(c)(7)(B)(v) if the State or local government fails to act within 60 days from the date of such notice. The notice provided to the State or local government shall include a copy of the *Ruling.* The Commission states that this option does not apply to applications that have currently been pending for less than 90 or 150 days, and in these instances the State or local government will have 90 or 150 days from the release of the *Ruling* before it will be considered to have failed to act. The Commission finds that such a transitional regime best balances the interests of applicants in finality with the needs of State and local governments for adequate time to implement the Commission's interpretation of section 332(c)(7).

18. Finally, the Commission states that these timeframes should take into account whether applications are complete. The Commission finds that when applications are incomplete as filed, the timeframes do not include the time that applicants take to respond to State and local governments' requests for additional information. The Commission also finds that reviewing authorities should be bound to notify applicants within a reasonable period of time that their applications are incomplete. It is important that State and local governments obtain complete applications in a timely manner, and such a finding will provide the incentive for wireless providers to file complete applications in a timely fashion. The Commission finds, based on the record, that a review period of 30 days gives State and local governments sufficient time for reviewing applications for completeness, while protecting applicants from a last minute decision that applications should be denied as incomplete.

19. Accordingly, the Commission concludes that the time it takes for an applicant to respond to a request for additional information will not count toward the 90 or 150 days only if that State or local government notifies the applicant within the first 30 days that its application is incomplete. The Commission finds that the record shows that the total amount of time, including the review period for application completeness, is generally consistent with those States that specifically include such a review period.

20. *Prohibition of Service by a Single Provider.* The Petitioner asks the Commission to conclude that State or local regulation that effectively prohibits one carrier from providing service because service is available from one or more other carriers violates section 332(c)(7)(B)(i)(II) of the Act. The Commission concludes that a State or local government that denies an application for personal wireless service facilities siting solely because one or more carriers serve a given geographic market has engaged in unlawful regulation that ''prohibits or ha[s] the effect of prohibiting the provision of personal wireless services,'' within the meaning of section 332(c)(7)(B)(i)(II).

21. Section 332(c)(7)(B)(i)(II) provides, as a limitation on the statute's preservation of local zoning authority, that a State or local government regulation of personal wireless facilities ''shall not prohibit or have the effect of prohibiting the provision of personal wireless services.'' The Commission notes that courts of appeals disagree on whether a State or local policy that denies personal wireless service facility siting applications solely because of the presence of another carrier should be treated as a siting regulation that prohibits or has the effect of prohibiting such services. Thus, a controversy exists that is appropriately resolved by declaratory ruling.

22. The Commission agrees with the Petitioner that the fact that another carrier or carriers provide service to an area is an inadequate defense under a claim that a prohibition of service exists, and the Commission concludes that any other interpretation of section 332(c)(7)(B)(i)(II) would be inconsistent with the Telecommunications Act's pro-competitive purpose. While the Commission acknowledges that the provision could be interpreted in the manner endorsed by several courts—as a safeguard against a complete ban on all personal wireless service within the State or local jurisdiction, which would have no further effect if a single provider is permitted to provide its service within the jurisdiction—the Commission concludes that under the better reading of the statute, the limitation of State/local authority applies not just to the first carrier to enter into the market, but also to all subsequent entrants.

23. The Commission reaches such a conclusion for several reasons. First, the Commission's interpretation is consistent with the statutory language referring to the prohibition of ''the provision of personal wireless services'' rather than the singular term ''service.'' Second, an interpretation that would regard the entry of one carrier into the locality as mooting a subsequent examination of whether the locality has improperly blocked personal wireless services ignores the possibility that the first carrier may not provide service to the entire locality, and a zoning approach that subsequently prohibits or effectively prohibits additional carriers therefore may leave segments of the population unserved or underserved. Third, the Commission finds unavailing the concern expressed by the Fourth Circuit (and some other courts) that giving each carrier an individualized right under section 332(c)(7)(B)(i)(II) to contest an adverse zoning decision as an unlawful prohibition of its service ''would effectively nullify local authority by mandating approval of all (or nearly all) applications.'' Rather, the Commission construes the statute to bar State and local authorities from prohibiting the provision of services of individual carriers solely on the basis of the presence of another carrier in the jurisdiction; State and local authority to base zoning regulation on other grounds is left intact by the *Ruling.* Finally, the Commission's construction of the provision achieves a balance that is most consistent with the relevant goals of the Communications Act to improve service quality and lower prices for consumers.

24. The Commission's determination also serves the Act's goal of preserving the State and local authorities' ability to reasonably regulate the location of facilities in a manner that operates in harmony with federal policies that promote competition among wireless providers. Nothing the Commission does in the *Ruling* interferes with these authorities' consideration of and action on the issues that traditionally inform local zoning regulation. Thus, where a *bona fide* local zoning concern, rather than the mere presence of other carriers, drives a zoning decision, it should be unaffected by the Commission's *Ruling.* The Commission observes that a decision to deny a personal wireless service facility siting application that is based on the availability of adequate collocation opportunities is not one based solely on the presence of other carriers, and so is unaffected by the Commission's interpretation of the statute in the *Ruling.*

25. The Commission disagrees with the assertion that granting the Petition could have a negative impact on airports by increasing the number of potential obstructions to air navigation. As the

Federal Aviation Administration notes, the Commission's action on the Petition does not alter or amend the Federal Aviation Administration's regulatory requirements and process. The Commission also rejects the assertion that the declaration the Petitioner seeks would violate section 332(c)(7)(A)'s provision that the authority of a State or local government over decisions regarding the placement, construction, and modification of personal wireless service facilities is limited only by the limitations imposed in subparagraph (B). The Commission notes that the denial of a single application may sometimes establish a violation of section 332(c)(7)(B)(ii) if it demonstrates a policy that has the effect of prohibiting the provision of personal wireless services as interpreted herein.

26. *Ordinances Requiring Variances.* The Petitioner requests that the Commission preempt, under section 253(a) of the Act, local ordinances and State laws that effectively require a wireless service provider to obtain a variance, regardless of the type and location of the proposal, before siting facilities. Because the Petitioner does not seek actual preemption of any ordinance by its Petition, nor does it present the Commission with sufficient information or evidence of a specific controversy on which to base such action or ruling, the Commission declines to issue a declaratory ruling that zoning ordinances requiring variances for all wireless siting requests are unlawful and will be struck down if challenged in the context of a section 253 preemption action.

27. *Other Issues.* Numerous parties argue that the Petitioner failed to follow the Commission's service requirements with respect to preemption petitions. 47 CFR 1.1206(a), Note 1, of the Commission's rules requires that a party filing either a petition for declaratory ruling seeking preemption of State or local regulatory authority, or a petition for relief under section 332(c)(7)(B)(v), must serve the original petition on any State or local government whose actions are cited as a basis for requesting preemption. By its terms, the service requirement does not apply to a petition that cites examples of the practices of unidentified jurisdictions to demonstrate the need for a declaratory ruling interpreting provisions of the Communications Act. These parties' principal argument is that the Commission should require the Petitioner to identify the jurisdictions that it references anonymously, which, they assert, would then trigger the service requirement. However, nothing in the rules requires that these jurisdictions be identified.

28. Several commenters argue that the Commission should deny the Petition in order to protect local citizens against the health hazards that these commenters attribute to RF emissions. To the extent commenters argue that State and local governments require flexibility to deny personal wireless service facility siting applications or delay action on such applications based on the perceived health effects of RF emissions, such authority is denied by statute under section 332(c)(7)(B)(iv). The Commission concludes that such arguments are outside the scope of the proceeding.

29. In its Cross-Petition, EMRPI contends that in light of additional data that has been compiled since 1996, the RF safety regulations that the Commission adopted at that time are no longer adequate. The Commission states that EMPRI's request to revisit the regulations is also outside the scope of the current proceeding, and the Commission dismisses EMRPI's Cross-Petition.

III. Conclusion

30. For the reasons discussed in the *Ruling,* the Commission grants in part and denies in part CTIA's Petition for a Declaratory Ruling interpreting provisions of section 332(c)(7) of the Communications Act. By clarifying the statute, the Commission recognizes Congress' dual interests in promoting the rapid and ubiquitous deployment of advanced, innovative, and competitive services, and in preserving the substantial area of authority that Congress reserved to State and local governments to ensure that personal wireless service facility siting occurs in a manner consistent with each community's values.

IV. Ordering Clauses

31. *It is ordered* that, pursuant to sections 4(i), 4(j), 201(b), 253(a), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), (j), 201(b), 253(a), 303(r), 332(c)(7), and § 1.2 of the Commission's rules, 47 CFR 1.2, the Petition for Declaratory Ruling filed by CTIA—The Wireless Association *is granted* to the extent specified in the *Ruling* and otherwise *is denied.*

32. *It is further ordered* that, pursuant to sections 4(i), 4(j), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), (j), 332(c)(7), and § 1.2 of the Commission's rules, 47 CFR 1.2, the Cross-Petition filed by the EMR Policy Institute *is dismissed.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E9–30291 Filed 12–18–09; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

AGENCY: Federal Election Commission.

DATE & TIME: Thursday, December 17, 2009, at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

The following item has been added to the agenda for the above-captioned open meeting:

Rulemaking to Repeal 11 CFR 100.57, 106.6(c) & (f).

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mary Dove, Commission Secretary, at (202) 694–1040, at least 72 hours prior to the hearing date.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Mary Dove,

Secretary of the Commission.

[FR Doc. E9–30058 Filed 12–18–09; 8:45 am]

BILLING CODE 6715–01–M

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 January 5, 2010.

A. 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; to engage *de novo* through its subsidiary, Sabadell Securities USA, Inc., Miami, Florida, in securities brokerage and riskless principal activities, pursuant to sections 225.28(b)(7)(i) and (b)(7)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, December 16, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–30239 Filed 12–18–09; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: National Directory of New Hires.

OMB No.: 0970–0166.

Description: Public Law 104–193, the ''Personal Responsibility and Work Opportunity Reconciliation Act of 1996,'' requires the Office of Child Support Enforcement (OCSE) to operate a National Directory of New Hires (NDNH) to improve the ability of State child support enforcement agencies to locate noncustodial parents and collect child support across State lines. The law requires employers to report newly hired employees to States. States are then required to periodically transmit new hire data received from employers to the NDNH, and to transmit wage and unemployment compensation claims data to the NDNH on a quarterly basis. Federal Agencies are required to report new hires and quarterly wage data directly to the NDNH. All data is transmitted to the NDNH electronically.

Respondents: Employers, State Child Support Enforcement Agencies, State Workforce Agencies, Federal Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
New Hire: Employers Reporting Manually	5,166,000	3.484	.025 hours (1.5 minutes)	449,959
New Hire: Employers Reporting Electronically	1,134,000	33.272	.00028 hours (1 second)	10,565
New Hire: States	54	83.333	66.7 hours	300,150
Quarterly Wage and Unemployment Compensation	53	8	.033 hours (2 minutes)	14
Multistate Employers' Notification Form	4176	1	.050 hours (3 minutes)	209
Estimated Total Annual Burden Hours				760,897

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. E-mail address: *rsargis@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: December 10, 2009.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. E9–30059 Filed 12–18–09; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0588]

Guidance for Industry on the Timeframe for Submission of Tobacco Health Documents; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance entitled ''Timeframe for Submission of Tobacco Health Documents.'' This document provides written guidance to tobacco product manufacturers and importers on enforcement of the requirement to submit certain documents to FDA under the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act).

DATES: The guidance is final upon the date of publication. However, you may submit electronic or written comments on the guidance at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled ''Timeframe for Submission of Tobacco Health Documents'' to the Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850–3229. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the guidance document may be sent. See the **SUPPLEMENTARY INFORMATION** section for information on

electronic access to the guidance document.

Submit electronic comments to *http://www.regulations.gov*. 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. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Michele Mital, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850–3229, 240–276–1717, *Michele.Mital@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On June 22, 2009, the President signed the Tobacco Control Act (Public Law 111–31) into law. The Tobacco Control Act amended the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 *et seq.*) by adding a new chapter granting FDA important new authority to regulate the manufacture, marketing, and distribution of tobacco products to protect the public health generally and to reduce tobacco use by minors.

Section 904(a)(4) of the act requires each tobacco product manufacturer or importer, or agent thereof, to submit all documents developed after June 22, 2009, ''that relate to health, toxicological, behavioral, or physiologic effects of current or future tobacco products, their constituents (including smoke constituents), ingredients, components, and additives.'' Information required under section 904(a)(4) of the act must be submitted to FDA beginning December 22, 2009. FDA recognizes the challenges associated with the collection, review, organization, and production of documents. We also recognize that additional time may be necessary for the production of documents in a digital format, which FDA strongly encourages in order to improve the management and readability of submitted documents. Therefore, FDA does not intend to enforce the December 22, 2009, initial document submission deadline, provided that manufacturers and importers submit by April 30, 2010, all documents described in section 904(a)(4) of the act developed between June 23, 2009, and March 31, 2010. FDA is in the process of developing a draft guidance document that will explain the requirements of and recommendations for compliance with section 904(a)(4) of the act. We anticipate that the draft guidance document will be issued shortly.

II. Significance of Guidance

FDA is issuing this guidance document as a level 1 guidance consistent with FDA's good guidance practices regulation (§ 10.115 (21 CFR 10.115)). This guidance document is being implemented immediately without prior public comment, under § 10.115(g)(2), because the agency has determined that prior public participation is not feasible or appropriate. This document provides guidance on statutory requirements that are due to take effect on December 22, 2009, and so it is urgent that FDA explain its enforcement policy before that date.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written 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

An electronic version of the guidance document is available on the Internet at *http://www.regulations.gov* and *http://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/default.htm*.

Dated: December 16, 2009.

David Dorsey,

Acting Deputy Commissioner for Policy, Planning, and Budget.

[FR Doc. E9–30297 Filed 12–16–09; 4:15 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Children's Study Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Children's Study Advisory Committee.

Date: January 14, 2010.

Time: 9 a.m. to 12 p.m.

Agenda: The agenda will include the following topics: an update on the current status of the Study and discussions regarding a federated IRB model, data access policies, and recruitment strategies.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room E1/E2, Bethesda, MD 20892.

Time: 12 p.m. to 5 p.m.

Agenda: This meeting is open to the public; however, registration is required since space is limited. Please visit the conference Web site for information on meeting logistics and to register for the meeting, *http://www.circlesolutions.com/ncs/ncsac/index.cfm*. For additional information about the Federal Advisory Committee meeting please contact Circle Solutions at *ncs@circlesolutions.com.*

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room E1/E2, Bethesda, MD 20892.

Contact Person: Jessica Sapienza, Executive Secretary, National Children's Study, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 3A01, Bethesda, MD 20892, (703) 902–1339, *ncs@circlesolutions.com.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: December 11, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–30065 Filed 12–18–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism: Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group Epidemiology, Prevention and Behavior Research Review Subcommittee.

Date: March 17, 2010.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lorraine Gunzerath, PhD, MBA, Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, Office of Extramural Activities, Extramural Project Review Branch, 5635 Fishers Lane, Room 2121, Bethesda, MD 20892–9304, 301–443–2369, *lgunzera@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271 Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: December 11, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–30066 Filed 12–18–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The portions of the meeting devoted to the review and evaluation of journals for potential indexing by the National Library of Medicine will be closed to the public in accordance with the provisions set forth in section 552b(c)(9)(B), Title 5 U.S.C., as amended. Premature disclosure of the titles of the journals as potential titles to be indexed by the National Library of Medicine, the discussions, and the presence of individuals associated with these publications could significantly frustrate the review and evaluation of individual journals.

Name of Committee: Literature Selection Technical Review Committee.

Date: February 25–26, 2010.

Open: February 25, 2010, 9 a.m. to 11 a.m.

Agenda: Administrative reports and program discussion.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: February 25, 2010, 11 a.m. to 5 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: February 26, 2010, 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Contact Person: Sheldon Kotzin, MLS, Associate Director, Division of Library Operations, National Library of Medicine, 8600 Rockville Pike, Bldg 38/Room 2W06, Bethesda, MD 20894. 301–496–6921. *Sheldon_Kotzin@nlm.nih.gov.*

Any interested person may file written comments with the Committee by forwarding the statement to the Contact Person listed on this Notice. The statement should include the name, address, telephone number and, when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by nongovernment employees. Persons without a government ID. will need to show a photo ID. and sign in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: December 11, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. E9–30061 Filed 12–18–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism, Initial Review Group Biomedical Research Review, Subcommittee AA–1 Biomedical Research Review Subcommittee.

Date: March 1–2, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Philippe Marmillot, PhD, Scientific Review Officer, National Institutes Of Health, National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Rm. 2019, Bethesda, MD 20892. 301–443–2861. *marmillotp@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: December 11, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–30060 Filed 12–18–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse, Special Emphasis Panel, B/START R03 Review.

Date: March 10, 2010.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852. (Virtual Meeting.)

Contact Person: Gerald L. McLaughlin, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Blvd., Bethesda, MD 20892–8401, 301–402–6626, *gm145a@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.279, Drug Abuse and Addiction Research Programs, National institutes of Health, HHS)

Dated: December 14, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–30112 Filed 12–18–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse, Special Emphasis Panel, Tools to Promote Security and Appropriate Prescribing of Scheduled Prescription Drugs (5560).

Date: January 5, 2010.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: Sofitel Washington DC, Lafayette Sq, 806 15th Street NW., Washington, DC 20005.

Contact Person: Jose F. Ruiz, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, 6101 Executive Blvd., Rm. 213, MSC 8401, Bethesda, MD 20892, 301–451–3086, *ruizjf@nida.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: December 14, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–30110 Filed 12–18–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, N43DA–10–7774: Rapid and Sensitive Method for Nicotine and Its Metabolites in Biological Fluids.

Date: January 12–13, 2010.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate contract proposals.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Minna Liang, PhD, Scientific Review Officer, Training and Special Projects Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, 6101 Executive Blvd., Room 220, MSC 8401, Bethesda, MD 20852. 301–435–1432. *liangm@nida.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: December 14, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–30108 Filed 12–18–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Program Projects Review.

Date: January 8, 2010.

Time: 12:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852. (Telephone Conference Call.)

Contact Person: Jose F. Ruiz, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, 6101 Executive Blvd., Rm. 213, MSC 8401, Bethesda, MD 20892. 301–451–3086. *ruizjf@nida.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: December 14, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–30107 Filed 12–18–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Neuroscience Review Subcommittee.

Date: March 2–3, 2010.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Beata Buzas, PhD, Scientific Review Officer, National Institute On Alcohol Abuse And Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm 2081, Rockville, MD 20852, 301–443–0800, *bbuzas@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards., National Institutes of Health, HHS)

Dated: December 14, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–30106 Filed 12–18–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council on Drug Abuse.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Drug Abuse.

Date: February 2–3, 2010.

Closed: February 2, 2010, 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Conference Rooms C & D, Rockville, MD 20852.

Open: February 3,2010, 8:30 a.m. to 1 p.m.

Agenda: This portion of the meeting will be open to the public for announcements and reports of administrative, legislative and program developments in the drug abuse field.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Conference Rooms C & D, Rockville, MD 20852.

Contact Person: Teresa Levitin, PhD, Director, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, (301) 443–2755.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://www.drugabusegov/NACDA/NACDAHome.html*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: December 14, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–30104 Filed 12–18–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Clinical Center; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the NIH Advisory Board for Clinical Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended to discuss personnel matters, the disclosure of which would constitute a clearly unwarranted invasion of privacy.

Name of Committee: NIH Advisory Board for Clinical Research.

Date: January 25, 2010.

Open: 10 a.m. to 1:15 p.m.

Agenda: To review the 2010 Clinical Center Operating Plan and provide updates on selected organizational initiatives.

Place: National Institutes of Health, Building 10, 10 Center Drive, CRC Medical Board Room 4–2551, Bethesda, MD 20892.

Closed: 1:15 p.m. to 2 p.m.

Agenda: To review and evaluate personnel matters.

Place: National Institutes of Health, Building 10, 10 Center Drive, CRC Medical Board Room 4–2551, Bethesda, MD 20892.

Contact Person: Maureen E. Gormley, Executive Secretary, Mark O. Hatfield Clinical Research Center, National Institutes of Health, Building 10, Room 6–2551, Bethesda, MD 20892, (301) 496–2897.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Dated: December 11, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–30303 Filed 12–18–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council for Nursing Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Nursing Research.

Date: January 19–20, 2010.

Open: January 19, 2010, 1 p.m. to 5 p.m.

Agenda: Discussion of Program Policies and Issues.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6C, Room 6, Bethesda, MD 20892.

Closed: January 20, 2010, 9 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6C, Room 6, Bethesda, MD 20892.

Contact Person: Mary E. Kerr, FAAN, RN, PhD, Deputy Director, National Institute of Nursing, National Institutes of Health, 31 Center Drive, Room 5B–05, Bethesda, MD 20892–2178, 301/496–8230, *kerrme@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nih.gov/ninr/a_advisory.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: December 15, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–30302 Filed 12–18–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowship: Neurotoxicology.

Date: January 13, 2010.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Michael Selmanoff, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3134, MSC 7844, Bethesda, MD 20892. 301–435–1119. *mselmanoff@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Social Science and Population Studies.

Date: January 14, 2010.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Valerie Durrant, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892. (301) 408–9882. *durrantv@csr.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group, Clinical, Integrative and Molecular Gastroenterology Study Section.

Date: January 25–26, 2010.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Najma Begum, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2186, MSC 7818, Bethesda, MD 20892. 301–435–1243. *begumn@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 15, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–30301 Filed 12–18–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Toxicology Program (NTP); Report on Carcinogens (RoC) Center: Request for Public Comments on the RoC Expert Panel's Recommendation on Listing Status for Formaldehyde and the Scientific Justification for the Recommendation

AGENCY: National Institute of Environmental Health Sciences (NIEHS); National Institutes of Health (NIH).

ACTION: Request for comments.

SUMMARY: The NTP invites public comment on the recommendation from an expert panel on the listing status for formaldehyde in the 12th RoC and the scientific justification for the recommendation. The recommendation and scientific justification for formaldehyde are available electronically in Part B of the Expert Panel Report (*http://ntp.niehs.nih.gov/go/29682* Formaldehyde, Expert Panel Report Part B) or in printed text from the RoC Center (see **FOR FURTHER INFORMATION CONTACT** below). The RoC Center convened a ten-member expert panel of scientists, plus four technical scientific experts, from the public and private sectors on November 2–4, 2009, in Research Triangle Park, NC. The panel was asked (1) to apply the RoC listing criteria to the relevant scientific evidence and make a recommendation regarding listing status (*i.e., known to be a human carcinogen, reasonably anticipated to be a human carcinogen,* or not to list) for formaldehyde in the 12th RoC and (2) to provide the scientific justification for their recommendation.

DATES: The Expert Panel Report (Part B) for formaldehyde will be available for public comment by December 18, 2009. Written comments should be submitted by February 8, 2010.

ADDRESSES: Comments should be sent to Dr. Ruth Lunn, Director, RoC Center [NIEHS, P.O. Box 12233, MD K2–14, Research Triangle Park, NC 27709; FAX: 919–541–0144; or *lunn@niehs.nih.gov.* Courier address: NIEHS, Room 2006, 530 Davis Drive, Morrisville, NC 27560].

FOR FURTHER INFORMATION CONTACT: Dr. Ruth Lunn, RoC Center, 919–316–4637 or *lunn@niehs.nih.gov.*

SUPPLEMENTARY INFORMATION:

Background

Formaldehyde is a high-production chemical that has a wide array of uses. The predominant use of formaldehyde in the United States is in the production of industrial resins (mainly urea, phenol, polyacetal, and melamine resins) that are used primarily to manufacture products such as adhesives and binders for wood products. Other uses include as a chemical intermediate, in agriculture (for example as a fumigant), in the production of paraformaldehyde and chelating agents, embalming and fixative or preservative in the medical and research fields, and as a preservative in numerous consumer products such as cleaning agents and cosmetic products. The predominant use of formaldehyde in the United States is in the production of industrial resins (mainly urea, phenol, polyacetal, and melamine resins) that are used to manufacture products such as adhesives and binders for wood products, pulp and paper, plastics, synthetic fibers, in textile finishing and other products. Formaldehyde has been detected in indoor and outdoor air, surface water and groundwater, soil and food products and is generally considered to be ubiquitous in the environment. Formaldehyde (gas) is currently listed in the 11th RoC as *reasonably anticipated to be a human carcinogen,* and was nominated for reclassification of its listing status in the 12th RoC.

The NTP announced the RoC review process for the 12th RoC on April 16, 2007, in the **Federal Register** (72 FR 18999, available at *http://ntp.niehs.nih.gov/go/15208*). As part of this process, the NTP announced availability of the draft background document for formaldehyde, invited public comments on the draft background document, and announced the formaldehyde expert panel meeting (74 FR 15983, *http://ntp.niehs.nih.gov/go/29682*). On November 2–4, 2009, the RoC Center convened a ten-member expert panel of scientists from the public and private sectors to evaluate formaldehyde for possible listing in the 12th RoC. Four additional, non-voting, expert scientists were also in attendance to respond to technical concerns from the panel. The expert panel met in a public forum at the Hilton Raleigh-Durham Airport Hotel at Research Triangle Park, NC. The panel was charged to peer review the draft background document for formaldehyde and then to make a recommendation on its listing status in the 12th RoC and to provide a scientific justification for that recommendation. Details about the meeting, including public comments received and the expert panel reports, are available on the RoC Web site (*http://ntp.niehs.nih.gov/go/29682*). The expert panel report for formaldehyde contains two parts: Part A has the peer-review comments on the draft background document and Part B has the recommendation on listing status and its scientific justification. The expert panel recommended that formaldehyde be listed in the 12th RoC as *known to be a human carcinogen.*

Request for Comments

The RoC Center invites written public comments on the expert panel's recommendation on listing status for formaldehyde and the scientific justification for the recommendation. All comments received will be posted on the RoC Web site and the commenter identified by name, affiliation, and sponsoring organization, if applicable. Persons submitting written comments are asked to include their name and contact information (affiliation, mailing address, telephone and facsimile numbers, e-mail, and sponsoring organization, if any) and send them to Dr. Lunn (see **ADDRESSES** above). The deadline for submission of written comments is February 8, 2010.

Next Steps

The RoC Center is in the process of finalizing the background document for formaldehyde based upon the expert panel's peer review comments and public comments on the draft document. Persons can register free-of-charge with the NTP listserv (*http://ntp.niehs.nih.gov/go/231*) to receive notification when the final background document is posted on the RoC Web site. As part of the RoC review process, two government groups will also conduct reviews of formaldehyde; these meetings are not open to the public. Upon completion of these reviews, the NTP will (1) draft a substance profile for formaldehyde that contains its listing recommendation for the 12th RoC and the scientific information supporting that recommendation, (2) solicit public comment on the draft substance profile, and (3) convene a meeting of the NTP Board of Scientific Counselors to peer review the draft substance profile.

Background Information on the RoC

The RoC is a Congressionally mandated document that identifies and discusses agents, substances, mixtures, or exposure circumstances (collectively referred to as ''substances'') that may pose a hazard to human health by virtue of their carcinogenicity. The RoC follows a formal, multi-step process for review and evaluation of selected chemicals. Substances are listed in the report as either *known or reasonably anticipated human carcinogens.* The NTP prepares the RoC on behalf of the

Secretary of Health and Human Services. Information about the RoC and the review process is available on its Web site (*http://ntp.niehs.nih.gov/go/roc*) or by contacting Dr. Lunn (see **FOR FURTHER INFORMATION CONTACT** above).

Dated: December 9, 2009.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. E9–30300 Filed 12–18–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Notice of Re-Designation of the Service Delivery Area for the Cowlitz Indian Tribe

AGENCY: Indian Health Service.

ACTION: Notice.

SUMMARY: This Notice advises the public that the Indian Health Service (IHS) proposes to expand the geographic boundaries of the Service Delivery Area (SDA) for the Cowlitz Indian Tribe. The Cowlitz SDA currently is comprised of Clark, Cowlitz, King, Lewis, Pierce, Skamania, and Thurston in the State of Washington. These counties were designated as the Tribe's SDA in 67 FR 46329. It is proposed that Columbia County, Oregon, and Wahkiakum and Kittitas Counties, Washington be added to the existing SDA.

DATES: This notice is effective 30 days after date of publication in the **Federal Register**.

ADDRESSES: Comments may be mailed to Betty Gould, Regulations Officer, Indian Health Service, Suite 450, 12300 Twinbrook Parkway, Rockville, Maryland 20852. Comments will be made available for public inspection at this address from 8:30 a.m. to 5:00 p.m. Monday–Friday beginning approximately 2 weeks after publication of this notice.

FOR FURTHER INFORMATION CONTACT: Carl Harper, Director, Office of Resource Access and Partnerships, Indian Health Service, Suite 360, 12300 Twinbrook Parkway, Rockville, Maryland 20852. Telephone 301/443–2694 (This is not a toll free number).

SUPPLEMENTARY INFORMATION: The IHS currently provides services under regulations in effect on September 15, 1987 and IHS republished at 42 CFR part 136, subparts A–C. Subpart C defines a Contract Health Service Delivery Area (CHSDA) as the geographic area within which CHS will be made available by the IHS to members of an identified Indian community who reside in the area. Residence with a CHSDA or SDA by a person who is within the scope of the Indian health program, as set forth in 42 CFR 136.12, creates no legal entitlement to contract health services but only potential eligibility for services. Services needed but not available at a IHS/Tribal facility are provided under the CHS program depending on the availability of funds, the person's relative medical priority, and the actual availability and accessibility of alternate resources in accordance with the regulations.

As applicable to the Tribes, these regulations provide that, unless otherwise designated, a CHSDA shall consist of a county which includes all or part of a reservation and any county or counties which have a common boundary with the reservation (42 CFR 136.22(a)(6) (2007). The regulations also provide that after consultation with the Tribal governing body or bodies of those reservations included in the CHSDA, the Secretary may, from time to time, re-designate areas within the United States for inclusion in or exclusion from a CHDSA. The regulations require that certain criteria must be considered before any re-designation is made. The criteria are as follows:

(1) The number of Indians residing in the area proposed to be so included or excluded;

(2) Whether the Tribal governing body has determined that Indians residing in the area near the reservation are socially and economically affiliated with the Tribes;

(3) The geographic proximity to the reservation of the area whose inclusion or exclusion is being considered; and

(4) The level of funding which would be available for the provision of contract health services.

Additionally, the regulations require that any re-designation of a CHSDA must be made in accordance with the Administrative Procedures Act (5 U.S.C. 553). In compliance with this requirement, we are publishing this proposal and requesting public comment.

The purpose of this FR notice is to notify the public of the request of the Cowlitz Indian Tribe to expand their SDA as presented in their 08–3 Tribal resolution dated January 5, 2008, and 08–56 Tribal resolution, dated December 06, 2008. The Tribe's request will expand their current SDA which incorporates Cowlitz, Clark, Skamania, King, Pierce, Thurston and Lewis Counties in the State of Washington, to include Columbia County in the State of Oregon, and Kittitas and Wahkiakum Counties in the State of Washington.

Under 42 CFR 136.23 those otherwise eligible Indians who do not reside on a reservation but reside within a CHSDA must be either members of the Tribe or maintain close economic and social ties with the Tribe. In this case, the Tribe estimates the current eligible population will be increased by 35 individuals' enrolled Cowlitz members who are actively involved with the Tribe, but not eligible for health services.

In applying the aforementioned CHSDA re-designation criteria required by operative regulations (43 FR 35654), the following findings are made:

1. Columbia County, Oregon is contiguous with Clark County in the state of Washington. Kittitas County is contiguous to King County and Wahkiakum County is contiguous to Lewis in the State of Washington.

2. These three counties are not part of any other Tribes CHSDA.

3. It is important for the Cowlitz Indian Tribe to be able to deliver health care services to enrolled members residing in these three counties. The Tribe believes eligible Tribal members living in the counties proposed for expansion should also be eligible for CHS.

4. Most of the 35 Tribal members use the Cowlitz Clinic in Longview, Washington for their health care needs. It is estimated that members have a 40 minute drive to receive their health care. These Tribal members do not currently receive care under the CHS program.

5. The financial resources required to meet the immediate needs of the Tribal members residing in the three counties will not be substantial as the Tribe will use existing Federal allocations for contract health funds.

Since CHS is a critical component of the Tribes' overall health care system for its members, the Tribe feels that the members residing in the three counties should be included within the SDA for the Tribe.

Accordingly, after considering the Tribes' request in light of the criteria specified in the regulations, the IHS is proposing to re-designate the SDA for the Tribe to consist of Columbia County in the State of Oregon and Kittitas and Wahkiakum Counties in the State of Washington.

This notice does not contain reporting or recordkeeping requirements subject to prior approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

CONTRACT HEALTH SERVICE DELIVERY AREAS AND SERVICE DELIVERY AREAS

Tribe/reservation	County/State
Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona.	Pinal, AZ.
Alabama-Coushatta Tribes of Texas	Polk, TX.[1]
Alaska	Entire State.[2]
Arapaho Tribe of the Wind River Reservation, Wyoming	Hot Springs, WY, Fremont, WY, Sublette, WY.
Aroostook Band of Micmac Indians of Maine	Aroostook, ME.[3]
Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana.	Daniels, MT, McCone, MT, Richland, MT, Roosevelt, MT, Sheridan, MT, Valley, MT.
Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin.	Ashland, WI, Iron, WI.
Bay Mills Indian Community, Michigan	Chippewa, MI.
Blackfeet Tribe of the Blackfeet Indian Reservation of Montana	Glacier, MT, Pondera, MT.
Minnesota Chippewa Tribe, Minnesota Bois Forte Band (Nett Lake)	Itasca, MN, Koochiching, MN, St. Louis, MN.
Brigham City Intermountain School Health Center, Utah	[4]
Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon	Harney, OR.
California	Entire State, except for the counties listed in the footnote.[5]
Catawba Indian Nation of South Carolina	All Counties in SC,[6] Cabarrus, NC, Cleveland, NC, Gaston, NC, Mecklenburg, NC, Rutherford, NC, Union, NC.
Cayuga Nation of New York	Allegany, NY.[7],Cattaraugus, NY, Chautaugua, NY, Erie, NY, Warren, PA.
Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota.	Corson, SD, Dewey, SD, Haakon, SD, Meade, SD, Perkins, SD, Potter, SD, Stanley, SD, Sully, SD, Walworth, SD, Ziebach, SD.
Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana	Chouteau, MT, Hill, MT, Liberty, MT.
Chitimacha Tribe of Louisiana	St. Mary Parish, LA.
Cocopah Tribe of Arizona	Yuma, AZ, Imperial, CA.
Coeur D'Alene Tribe of the Coeur D'Alene Reservation, Idaho	Benewah, ID, Kootenai, ID, Latah, ID, Spokane, WA, Whitman, WA.
Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California.	La Paz, AZ, Riverside, CA, San Bernardino, CA, Yuma, AZ.
Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana.	Flathead, MT, Lake, MT, Missoula, MT, Sanders, MT.
Confederated Tribes of the Chehalis Reservation, Washington	Grays Harbor, WA, Lewis, WA, Thurston, WA.
Confederated Tribes of the Colville Reservation, Washington	Chelan, WA,[8] Douglas, WA, Ferry, WA, Grant, WA, Lincoln, WA, Okanogan, WA, Stevens, WA.
Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians of Oregon.	Coos, OR,[9] Curry, OR, Douglas, OR, Lane, OR, Lincoln, OR.
Confederated Tribes of the Goshute Reservation, Nevada and Utah	Nevada, Juab, UT, Toole, UT.
Confederated Tribes of Grand Ronde Community of Oregon	Polk, OR [10], Washington, OR, Marion, OR, Yamhill, OR, Tillamook, OR, Multnomah, OR.
Confederated Tribes of the Siletz Reservation, Oregon	Benton, OR,[11] Clackamas, OR, Lane, OR, Lincoln, OR, Linn, OR, Marion, OR, Multnomah, OR, Polk, OR, Tillamook, OR, Washington, OR, Yam Hill, OR.
Confederated Tribes of the Umatilla Reservation, Oregon	Umatilla, OR, Union, OR.
Confederated Tribes of the Warm Springs Reservation of Oregon	Clackamas, OR, Jefferson, OR, Linn, OR, Marion, OR, Wasco, OR.
Confederated Tribes & Bands of the Yakama Nation, Washington	Klickitat, WA, Lewis, WA, Skamania, WA,[12] Yakima, WA.
Coquille Tribe of Oregon	Coos, OR, Curry, OR, Douglas, OR, Jackson, OR, Lane, OR.
Coushatta Tribe of Louisiana	Allen Parish, LA, Elton, LA.[13]
Cow Creek Band of Umpqua Indians of Oregon	Coos, OR,[14] Deshutes, OR, Douglas, OR, Jackson, OR, Josephine, OR, Klamath, OR, Lane, OR.
Cowlitz Indian Tribe, Washington	Clark, WA, Cowlitz, WA, King, WA, Lewis, WA, Pierce, WA, Skamania, WA, Thurston, WA, Columbia, OR, Kitititas, WA, Wahkiakum, WA.[15]
Crow Tribe of Montana	Big Horn, MT, Carbon, MT, Treasure, MT,[16] Yellowstone, MT, Big Horn, WY, Sheridan, WY.
Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota	Brule, SD, Buffalo, SD, Hand, SD, Hughes, SD, Hyde, SD, Lyman, SD, Stanley, SD.
Eastern Band of Cherokee Indians of North Carolina	Cherokee, NC, Graham, NC, Haywood, NC, Jackson, NC, Swain, NC.
Flandreau Santee Sioux Tribe of South Dakota	Moody, SD.
Fond du Lac Band of Chippewa Indians of Minnesota	Carlton, MN, St. Louis, MN.
Forest County Potawatomi Community, Wisconsin	Forest, WI, Marinette, WI, Oconto, WI.
Fort Belknap Indian Community of the Fort Belknap Reservation of Montana.	Blaine, MT, Phillips, MT.
Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon.	Nevada, Malheur, OR.
Fort McDowell Yavapai Nation, Arizona	Maricopa, AZ.
Fort Mojave Indian Tribe of Arizona, California and Nevada	Nevada, Mohave, AZ, San Bernardino, CA.
Gila River Indian Community of the Gila River Indian Reservation, Arizona.	Maricopa, AZ, Pinal, AZ.
Grand Portage Band of Chippewa Indians of Minnesota	Cook, MN.
Grand Traverse Band of Ottawa & Chippewa Indians of Michigan	Antrim, MI,[17] Benzie, MI, Charlevoix, MI, Grand Traverse, MI, Leelanau, MI, Manistee, MI.
Hannahville Indian Community, Michigan	Delta, MI, Menominee, MI.
Haskell Indian Health Center	Douglas, KS.[18]

CONTRACT HEALTH SERVICE DELIVERY AREAS AND SERVICE DELIVERY AREAS—Continued

Tribe/reservation	County/State
Havasupai Tribe of the Havasupai Reservation, Arizona	Coconino, AZ.
Ho-Chunk Nation of Wisconsin	Adams, WI,[19] Clark, WI, Columbia, WI, Crawford, WI, Dane, WI, Eau Claire, WI, Houston, MN, Jackson, WI, Juneau, WI, La Crosse, WI, Marathon, WI, Monroe, WI, Sauk, WI, Shawano, WI, Vernon, WI, Wood, WI.
Hoh Indian Tribe of the Hoh Indian Reservation, Washington	Jefferson, WA.
Hopi Tribe of Arizona	Apache, AZ, Coconino, AZ, Navajo, AZ.
Houlton Band of Maliseet Indians of Maine	Aroostook, ME.[20]
Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona	Coconino, AZ, Mohave, AZ, Yavapai, AZ.
Huron Potawatomi, Inc., Michigan	Allegan, MI,[21] Barry, MI, Branch, MI, Calhoun, MI, Kalamazoo, MI, Kent, MI, Ottawa, MI.
Iowa Tribe of Kansas and Nebraska	Brown, KS, Doniphan, KS, Richardson, NE.
Jamestown S'Klallam Tribe of Washington	Clallam, WA, Jefferson, WA.
Jena Band of Choctaw Indians, Louisiana	Grand Parish, LA,[22] LaSalle Parish, LA, Rapides Parish, LA.
Jicarilla Apache Nation, New Mexico	Archuleta, CO, Rio Arriba, NM, Sandoval, NM.
Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona.	Coconino, AZ, Mohave, AZ, Kane, UT.
Kalispel Indian Community of the Kalispel Indian Reservation, Washington.	Pend Oreille, WA, Spokane, WA.
Keweenaw Bay Indian Community, Michigan	Baraga, MI, Houghton, MI, Ontonagon, MI.
Kickapoo Tribe of Indians of the Kickapoo Reservation of Kansas	Brown, KS, Jackson, KS.
Kickapoo Traditional Tribe of Texas	Maverick, TX.[23]
Klamath Tribes of Oregon	Klamath, OR.[24]
Kootenai Tribe of Idaho	Boundary, ID.
Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin.	Sawyer, WI.
Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin.	Iron, WI, Oneida, WI, Vilas, WI.
Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan	Gogebic, MI.
Leech Lake Band of Chippewa Indians of Minnesota	Beltrami, MN, Cass, MN, Hubbard, MN, Itasca, MN.
Little River Band of Ottawa Indians, Michigan	Kent, MI,[25] Muskegon, MI, Newaygo, MI, Oceana, MI, Ottawa, MI, Manistee, MI, Mason, MI, Wexford, MI, Lake, MI.
Little Traverse Bay Bands of Odawa Indians, Michigan	Alcona, MI,[26] Alger, MI, Alpena, MI, Antrim, MI, Benzie, MI, Charlevoix, MI, Cheboygan, MI, Chippewa, MI, Crawford, MI, Delta, MI, Emmet, MI, Grand Traverse, MI, Iosco, MI, Kalkaska, MI, Leelanau, MI, Luce, MI, Mackinac, MI, Manistee, MI, Missaukee, MI, Montmorency, MI, Ogemaw, MI, Oscoda, MI, Otsego, MI, Presque Isle, MI, Schoolcraft, MI, Roscommon, MI, Wexford, MI.
Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota	Brule, SD, Buffalo, SD, Hughes, SD, Lyman, SD, Stanley, SD.
Lower Elwha Tribal Community of the Lower Elwha Reservation, Washington.	Clallam, WA.
Lower Sioux Indian Community in the State of Minnesota	Redwood, MN, Renville, MN.
Lummi Tribe of the Lummi Reservation, Washington	Whatcom, WA.
Makah Indian Tribe of the Makah Reservation, Washington	Clallam, WA.
Mashantucket Pequot Tribe of Connecticut	New London, CT.[27]
Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan	Allegan, MI,[28] Barry, MI, Kalamazoo, MI, Kent, MI, Ottawa, MI.
Menominee Indian Tribe of Wisconsin	Langlade, WI, Menominee, WI, Oconto, WI, Shawano, WI.
Mescalero Apache Tribe of the Mescalero Reservation, New Mexico	Chaves, NM, Lincoln, NM, Otero, NM.
Miccosukee Tribe of Indians of Florida	Broward, FL, Collier, FL, Miami-Dade, FL, Hendry, FL.
Mille Lacs Band of Chippewa Indians of Minnesota	Aitkin, MN, Kanebec, MN, Mille Lacs, MN, Pine, MN.
Mississippi Band of Choctaw Indians, Mississippi	Attala, MS, Jasper, MS,[29] Jones, MS, Kemper, MS, Leake, MS, Neshoba, MS, Newton, MS, Noxubee, MS,[30] Scott, MS.[31], Winston, MS.
Mohegan Indian Tribe of Connecticut	Fairfield, CT, Hartford, CT, Litchfield, CT, Middlesex, CT, New Haven, CT, New London, CT, Tolland, CT, Windham, CT.
Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington	King, WA, Pierce, WA.
Narragansett Indian Tribe of Rhode Island	Washington, RI.[32]
Navajo Nation, Arizona, New Mexico and Utah	Apache, AZ, Bernalillo, NM, Cibola, NM, Coconino, AZ, Kane, UT, McKinley, NM, Montezuma, CO, Navajo, AZ, Rio Arriba, NM, Sandoval, NM, San Juan, NM, San Juan, UT, Socorro, NM, Valencia, NM.
Nevada	Entire State.[33]
Nez Perce Tribe of Idaho	Clearwater, ID, Idaho, ID, Latah, ID, Lewis, ID, Nez Perce, ID.
Nisqually Indian Tribe of the Nisqually Reservation, Washington	Pierce, WA, Thurston, WA.
Nooksack Indian Tribe of Washington	Whatcom, WA.
Northern Cheyenne Tribe Northern Cheyenne Indian Reservation, Montana.	Big Horn, MT, Carter, MT,[34] Rosebud, MT.
Northwestern Band of Shoshoni Nation of Utah (Washakie)	Box Elder, UT.[35]

CONTRACT HEALTH SERVICE DELIVERY AREAS AND SERVICE DELIVERY AREAS—Continued

Tribe/reservation	County/State
Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota	Bennett, SD, Cherry, NE, Custer, SD, Dawes, NE, Fall River, SD, Jackson, SD,[36] Mellete, SD, Pennington, SD, Shannon, SD, Sheridan, NE, Todd, SD.
Oklahoma	Entire State.[37]
Omaha Tribe of Nebraska	Burt, NE, Cuming, NE, Monona, IA, Thurston, NE, Wayne, NE.
Oneida Nation of New York	Chenango, NY, Cortland, NY, Herkimer, NY, Madison, NY, Oneida, NY, Onondaga, NY.
Oneida Tribe of Indians of Wisconsin	Brown, WI, Outagamie, WI.
Onondaga Nation of New York	Onondaga, NY.
Paiute Indian Tribe of Utah	Iron, UT,[38] Millard, UT, Sevier, UT, Washington, UT.
Pascua Yaqui Tribe of Arizona	Pima, AZ.[39]
Passamaquoddy Tribe of Maine	Aroostook, ME,[40] Washington, ME.
Passamaquoddy Tribe of Pleasant Point, Maine	Washington, ME, south of State Route 9.[41]
Penobscot Tribe of Maine	Aroostook, ME,[42] Penobscot, ME.
Poarch Band of Creek Indians of Alabama	Baldwin, AL,[43] Escambia, AL, Mobile, AL, Monroe, AL, Escambia, FL.
Pokagon Band of Potawatomi Indians, Michigan and Indiana	Allegan, MI, Berrien, MI, Cass, MI, Elkhart, IN,[44] Kosciusko, IN, La Porte, IN, Marshall, IN, St. Joseph, IN, Starke, IN, Van Buren, MI.
Ponca Tribe of Nebraska	Boyd, NE.[45], Burt, NE, Charles Mix, SD, Douglas, NE, Hall, NE, Holt, NE, Knox, NE, Lancaster, NE, Madison, NE, Platte, NE, Pottawattomie, IA, Sarpy, NE, Stanton, NE, Wayne, NE, Woodbury, IA.
Port Gamble Indian Community of the Port Gamble Reservation, Washington.	Kitsap, WA.
Prairie Band of Potawatomi Nation, Kansas	Jackson, KS.
Prairie Island Indian Community in the State of Minnesota	Goodhue, MN.
Pueblo of Acoma, New Mexico	Cibola, NM.
Pueblo of Cochiti, New Mexico	Sandoval, NM, Sante Fe, NM.
Pueblo of Jemez, New Mexico	Sandoval, NM.
Pueblo of Isleta, New Mexico	Bernalillo, NM, Torrance, NM, Valencia, NM.
Pueblo of Laguna, New Mexico	Bernalillo, NM, Cibola, NM, Sandoval, NM, Valencia, NM.
Pueblo of Nambe, New Mexico	Santa Fe, NM.
Pueblo of Picuris, New Mexico	Taos, NM.
Pueblo of Pojoaque, New Mexico	Rio Arriba, NM, Santa Fe, NM.
Pueblo of San Felipe, New Mexico	Sandoval, NM.
Pueblo of San Ildefonso, New Mexico	Los Alamos, NM, Rio Arriba, NM, Sandoval, NM, Santa Fe, NM.
Pueblo of San Juan, New Mexico	Rio Arriba, NM.
Pueblo of Sandia, New Mexico	Bernalillo, NM, Sandoval, NM.
Pueblo of Santa Ana, New Mexico	Sandoval, NM.
Pueblo of Santa Clara, New Mexico	Los Alamos, NM, Sandoval, NM, Santa Fe, NM.
Pueblo of Santo Domingo, New Mexico	Sandoval, NM, Santa Fe, NM.
Pueblo of Taos, New Mexico	Colfax, NM, Taos, NM.
Pueblo of Tesuque, New Mexico	Santa Fe, NM.
Pueblo of Zia, New Mexico	Sandoval, NM.
Puyallup Tribe of the Puyallup Reservation, Washington	King, WA, Pierce, WA, Thurston, WA.
Quechan Tribe of the Fort Yuma Indian Reservation, California and Arizona.	Yuma, AZ, Imperial, CA.
Quileute Tribe of the Quileute Reservation, Washington	Clallam, WA, Jefferson, WA.
Quinault Tribe of the Quinault Reservation, Washington	Grays Harbor, WA, Jefferson, WA.
Rapid City, South Dakota	Pennington, SD.[46]
Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin	Bayfield, WI.
Red Lake Band of Chippewa Indians, Minnesota	Beltrami, MN, Clearwater, MN, Koochiching, MN, Lake of the Woods, MN, Marshall, MN, Pennington, MN, Polk, MN, Roseau, MN.
Rosebud Sioux Tribe of the Rosebud Indian Reservation. South Dakota	Bennett, SD, Cherry, NE, Gregory, SD, Lyman, SD, Mellette, SD, Todd, SD, Tripp, SD.
Sac & Fox Tribe of the Mississippi in Iowa	Tama, IA.
Sac & Fox Nation of Missouri in Kansas & Nebraska	Brown, KS, Richardson, NE.
Saginaw Chippewa Indian Tribe of Michigan	Arenac, MI,[47] Clare, MI, Isabella, MI, Midland, MI, Missaukee, MI.
St. Croix Chippewa Indians of Wisconsin	Barron, WI, Burnett, WI, Pine, MN, Polk, WI, Washburn, WI.
Saint Regis Mohawk Tribe, New York	Franklin, NY, St. Lawrence, NY.
Salt River Pima-Maricopa Indian Community of Salt River Reservation, Arizona.	Maricopa, AZ.
Samish Indian Tribe, Washington	Clallam, WA,[48] Island, WA, Jefferson, WA, King, WA, Kitsap, WA, Pierce, WA, San Juan, WA, Skagit, WA, Snohomish, WA, Whatcom, WA.
San Carlos Apache Tribe of the San Carlos Reservation, Arizona	Apache, AZ, Cochise, AZ, Gila, AZ, Graham, AZ, Greenlee, AZ, Pinal, AZ.
San Juan Southern Paiute Tribe of Arizona	Coconino, AZ, San Juan, UT.
Santee Sioux Nation, Nebraska	Bon Homme, SD, Knox, NE.
Sauk-Suiattle Indian Tribe of Washington	Snohomish, WA, Skagit, WA.

CONTRACT HEALTH SERVICE DELIVERY AREAS AND SERVICE DELIVERY AREAS—Continued

Tribe/reservation	County/State
Sault Ste. Marie Tribe of Chippewa Indians of Michigan	Alger, MI,[49] Chippewa, MI, Delta, MI, Luce, MI, Mackinac, MI, Marquette, MI, Schoolcraft, MI.
Seminole Tribe of Florida	Broward, FL, Collier, FL, Miami-Dade, FL, Glades, FL, Hendry, FL.
Seneca Nation of New York	Allegany, NY, Cattaraugus, NY, Chautaugua, NY, Erie, NY, Warren, PA.
Shakopee Mdewakanton Sioux Community of Minnesota	Scott, MN.
Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington.	Pacific, WA.
Shoshone Tribe of the Wind River Reservation, Wyoming	Hot Springs, WY, Fremont, WY, Sublette, WY.
Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho	Bannock, ID, Bingham, ID, Caribou, ID, Lemhi, ID,[50] Power, ID.
Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada	Nevada, Owyhee, ID.
Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota.	Codington, SD, Day, SD, Grant, SD, Marshall, SD, Richland, ND, Roberts, SD, Sargent, ND, Traverse, MN.
Skokomish Indian Tribe of Skokomish Reservation, Washington	Mason, WA.
Skull Valley Band of Goshute Indians of Utah	Tooele, UT.
Snoqualmie Tribe, Washington	King, WA,[51] Snohomish, WA, Pierce, WA, Island, WA, Mason, WA.
Sokaogon Chippewa Community, Wisconsin	Forest, WI.
Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado	Archuleta, CO, La Plata, CO, Montezuma, CO, Rio Arriba, NM, San Juan, NM.
Spirit Lake Tribe, North Dakota	Benson, ND, Eddy, ND, Nelson, ND, Ramsey, ND.
Spokane Tribe of the Spokane Reservation, Washington	Ferry, WA, Lincoln, WA, Stevens, WA.
Squaxin Island Tribe of the Squaxin Island Reservation, Washington	Mason, WA.
Standing Rock Sioux Tribe of North and South Dakota	Adams, ND, Campbell, SD, Corson, SD, Dewey, SD, Emmons, ND, Grant, ND, Morton, ND, Perkins, SD, Sioux, ND, Walworth, SD, Ziebach, SD.
Stockbridge Munsee Community, Wisconsin	Menominee, WI, Shawano, WI.
Stillaguamish Tribe of Washington	Snohomish, WA.
Suquamish Indian Tribe of the Port Madison Reservation, Washington	Kitsap, WA.
Swinomish Indians of the Swinomish Reservation, Washington	Skagit, WA.
Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota	Dunn, ND, Mercer, ND, McKenzie, ND, McLean, ND, Mountrail, ND, Ward, ND.
Tohono O'odham Nation of Arizona	Maricopa, AZ, Pima, AZ, Pinal, AZ.
Tonawanda Band of Seneca Indians of New York	Genesee, NY, Erie, NY, Niagara, NY.
Tonto Apache Tribe of Arizona	Gila, AZ.
Trenton Service Unit, North Dakota and Montana	Divide, ND,[52] McKenzie, ND, Williams, ND, Richland, MT, Roosevelt, MT, Sheridan, MT.
Tulalip Tribes of the Tulalip Reservation, Washington	Snohomish, WA.
Tunica-Biloxi Indian Tribe of Louisiana	Avoyelles, LA, Rapides, LA.[53]
Turtle Mountain Band of Chippewa Indians of North Dakota	Rolette, ND.
Tuscarora Nation of New York	Niagara, NY.
Upper Sioux Community, Minnesota	Chippewa, MN, Yellow Medicine, MN.
Upper Skagit Indian Tribe of Washington	Skagit, WA.
Ute Indian Tribe of the Uintah & Ouray Reservation, Utah	Carbon, UT, Daggett, UT, Duchesne, UT, Emery, UT, Grand, UT, Rio Blanco, CO, Summit, UT, Uintah, UT, Utah, UT, Wasatch, UT.
Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico and Utah.	Apache, AZ, La Plata, CO, Montezuma, CO, San Juan, NM, San Juan, UT.
Wampangoag Tribe of Gay Head (Aquinnah) of Massachusetts	Dukes, MA.[54]
Washoe Tribe of Nevada & California	Entire State of NV, Entire State of CA, except for the counties listed in footnote.
White Earth Band of Chippewa Indians of Minnesota	Becker, MN, Clearwater, MN, Mahnomen, MN, Norman, MN, Polk, MN.
White Mountain Apache Tribe of the Fort Apache Reservation, Arizona	Apache, AZ, Coconino, AZ, Gila, AZ, Graham, AZ, Greenlee, AZ, Navajo, AZ.
Winnebago Tribe of Nebraska	Dakota, NE, Dixon, NE, Monona, IA, Thurston, NE, Wayne, NE, Woodbury, IA.
Yankton Sioux Tribe of South Dakota	Bon Homme, SD, Boyde, NE, Charles Mix, SD, Douglas, SD, Gregory, SD, Hutchinson, SD, Knox, NE.
Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona.	Yavapai, AZ.
Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona	Yavapai, AZ.
Ysleta Del Sur Pueblo of Texas	El Paso, TX.[55]
Zuni Tribe of the Zuni Reservation, New Mexico	Apache, AZ, Cibola, NM, McKinley, NM, Valencia, NM.

[1] Public Law 100–89, Restoration Act for Ysleta Del Sur and Alabama and Coushatta Tribes of Texas establishes service areas for "members of the Tribe" by sections 101(3) and 105(a) for the Pueblo and sections 201(3) and 206(a) respectively.

[2] Entire State of Alaska is included as a CHSDA by regulation (42 CFR 136.22(a)(1)).

[3] Aroostook Band of Micmac was recognized by Congress on November 26, 1991 through the Aroostook Band of Micmac Settlement Act. Aroostook County was defined as the SDA.

[4] Special programs established by Congress irrespective of the eligibility regulations. Eligibility for services at these facilities is based on the legislative history of the appropriation of funds for the particular facility, rather than the eligibility regulations and historically services have been provided at Brigham City (Pub. L. 88–358).

[5] Entire State of California, excluding counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura, is designated a CHSDA (25 U.S.C. 1680).

[6] This is a newly recognized Tribe, as documented at 67 FR 46329, July 12, 2002. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[7] This is a newly recognized Tribe, as documented at 67 FR 46329, July 12, 2002. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[8] Historically part of the Coleville Service Unit population since 1970.

[9] Members of the Tribe residing in these counties were specified as eligible for Federal services and benefits without regard to the existence of a Federal Indian reservation (Pub. L. 98–481, and H. Rept. No. 98–904).

[10] Confederated Tribes of Grande Ronde Community of Oregon recognized by Public Law 98–165, signed into law on November 22, 1983, provides for eligibility in these six counties without regard to the existence of a reservation.

[11] In order to carry out the Congressional intent of the Siletz Restoration Act, Public Law 95–195, as expressed in H. Report No. 95–623, at page 4, Siletz Tribal members residing in these counties are eligible for contract health services.

[12] Historically part of the Yakama Service Unit population since 1979.

[13] Contract Health Service Delivery Area expanded administratively by the Director, IHS, through regulation (42 CFR 136.22(6)) to include city limits of Elton, LA.

[14] Cow Creek Band of Umpqua Indians of Oregon recognized by Public Law 97–391, signed into law on December 29, 1983. House Rept. No. 97–862 designates Douglas, Jackson, and Josephine Counties as a service area without regard to the existence of a reservation. The IHS later exercised administrative discretion to add Coos, Deshutes, Klamath and Lane Counties to the service delivery area.

[15] This is a newly recognized Tribe, as documented at 67 FR 46329, July 12, 2002. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638. It is proposed that Columbia County, OR, Kittitas, WA and Wahkiakum County, WA be added to the existing SDA.

[16] Historically part of Crow Service Unit population.

[17] Historically part of the Grande Traverse Service Unit population since 1980.

[18] Historically part of Kansas Service Unit since 1979. Special programs established by Congress irrespective of the eligibility regulations. Eligibility for services at these facilities is based on the legislative history of the appropriation of funds for the particular facility, rather than the eligibility regulations and historically services have been provided at Haskell (H. Rept. No. 95–392).

[19] The counties included in this CHSDA were designated by regulation (42 CFR 136.22(a)(5)).

[20] Public Law 97–428 provides for eligibility in or around the Town of Houlton without regard to existence of a reservation.

[21] This is a newly recognized Tribe, as documented at 67 FR 46329, July 12, 2002. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[22] This is a newly recognized Tribe, as documented at 67 FR 46329, July 12, 2002. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[23] Texas Band of Kickapoo was recognized by Public Law 97–429, signed into law on January 8, 1983. The Act provides for eligibility for Kickapoo Tribal members residing in Maverick County without regard to the existence of a reservation.

[24] Legislative history states that for the purpose of Federal services and benefits ''members of the tribe residing in Klamath County shall be deemed to be residing in or near a reservation''. (Pub. L. 99–398, Sec. 2(2)).

[25] The Little River Band of Ottawa Indians and the Little Traverse Bay Bands of Odawa Indians were recognized by Congress (Pub. L. 103–324, Sec. 4(b)(2)) and the listed counties were designated as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[26] The Little River Band of Ottawa Indians and the Little Traverse Bay Bands of Odawa Indians were recognized by Congress (Pub. L. 103–324, Sec. 4(b)(2)) and the listed counties were designated as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[27] Mashantucket Pequot Indian Claims Settlement Act, Public Law 98–134, signed into law on October 18, 1983, provides for a reservation in New London.

[28] This is a newly recognized Tribe, as documented at 67 FR 46329, July 12, 2002. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[29] Choctaw Indians residing in Jasper and Noxubee Counties, MS, will continue to be eligible for contract health services. These two counties were inadvertently omitted from 42 CFR 136.22.

[30] Choctaw Indians residing in Jasper and Noxubee Counties, MS, will continue to be eligible for contract health services. These two counties were inadvertently omitted from 42 CFR 136.22.

[31] Historically part of the Choctaw Service Unit population since 1970.

[32] Narragansett Indians recognized by Public Law 95–395, signed into law September 30, 1978. Lands in Washington County are now Federally restricted and the Bureau of Indian Affairs considers them as the Narragansett Indian Reservation.

[33] Entire State of Nevada is included as a CHSDA by regulation (42 CFR 136.22(a)(2)).

[34] Historically part of the Northern Cheyenne Service Unit population since 1979.

[35] Land of Box Elder County, Utah, taken into trust for the Tribe in 1986.

[36] Washabaugh County, SD is part of Jackson County, SD, on November 5, 1968.

[37] Entire State of Oklahoma is included as a CHSDA by regulation (42 CFR 136.22(a)(3)).

[38] Paiute Indian Tribe of Utah Reservation Act, Public Law 96–227, provides for the extension of services to these four counties without regard to the existence of a reservation.

[39] Legislative history (H.R. Report No. 95–1021) to Pub. L. 95–375, Extension of Federal Benefits to Pascua Yaqui Indians, Arizona, expresses congressional intent that lands conveyed to the Tribes pursuant to Act of October 8, 1964 (Pub. L. 88–350) shall be deemed a Federal Indian Reservation.

[40] Included to carry out the intention of Congress to fund and provide contract health services to Penobscot and Passamaquoddy Indians (Pub. L. 96–420; H. Rept. 96–1353).

[41] Included to carry out the intention of Congress to fund and provide contract health services to Penobscot and Passamaquoddy Indians (Pub. L. 96–420; H. Rept. 96–1353).

[42] Included to carry out the intention of Congress to fund and provide contract health services to Penobscot and Passamaquoddy Indians (Pub. L. 96–420; H. Rept. 96–1353).

[43] Counties in the Service Unit designated by Congress for the Poarch Band of Creek Indians (*see* H. Rept. 98–886, June 29, 1984; Cong. Record, October 10, 1984, Pg. H11929).

[44] This is a newly recognized Tribe, as documented at 67 FR 46329, July 12, 2002. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[45] Ponca Restoration Act, Public Law 101–484, recognized members of the Tribe residing in Boyd, Douglas, Knox, Madison or Lancaster counties of Nebraska or Charles Mix County of South Dakota shall be deemed to be residing on or near a reservation. Public Law 104–109 added Burt, Hall, Holt, Platte, Sarpy, Stanton, and Wayne Counties of Nebraska and Pottawattomie and Woodbury Counties of Iowa.

[46] Special programs established by Congress irrespective of the eligibility regulations. Eligibility for services at these facilities is based on the legislative history of the appropriation of funds for the particular facility, rather than the eligibility regulations and historically services have been provided at Rapid City.

[47] Historically part of Isabella Reservation Area and Eastern Michigan Service Unit population since 1979.

[48] This is a newly recognized Tribe, as documented at 67 FR 46329, July 12, 2002. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[49] The counties included in this CHSDA were designated by regulation (42 CFR 136.22(a)(4)).

[50] Historically part of the Fort Hall Service Unit population since 1979.

[51] This is a newly recognized Tribe, as documented at 67 FR 46329, July 12, 2002. The counties listed were designated administratively as the SDA, to function as a CHSDA, for the purposes of operating a CHS program pursuant to the ISDEAA, Public Law 93–638.

[52] The Secretary acting through the Service is directed to provide contract health services to Turtle Mountain Band of Chippewa Indians that reside in Trenton Service Area of Divide, Mackenzie, and Williams Counties in the state of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the state of Montana (Sec. 815, Pub. L. 94–437).

[53] Historically part of the Tunica Biloxi Service Unit population since 1982.

[54] Members of the Tribe residing in Martha's Vineyard [are] deemed to be living ''on or near an Indian reservation'' for the purposes of eligibility for Federal services (Sec. 12, Pub. L. 100–95).

[55] Public Law 100–89, Restoration Act for Ysleta Del Sur and Alabama and Coushatta Tribes of Texas establishes service areas for ''members of the Tribe'' by sections 101(3) and 105(a) for the Pueblo and sections 201(3) and 206(a) respectively.

Dated: December 11, 2009.

Yvette Roubideaux,

Director, Indian Health Service.

[FR Doc. E9–30213 Filed 12–18–09; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Environmental Health Sciences: Superfund Research Program; Request for Information (NOT–ES–10–003): Superfund Research Program Strategic Planning

AGENCY: National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH), HHS.

ACTION: Request for information.

SUMMARY: The NIEHS Superfund Research Program (SRP), in response to recommendations of the NIEHS Superfund Research Program External Advisory Panel convened in 2009, is seeking input to develop a strategic plan to provide direction to achieve its mandates described in SARA Section 311(a). Information provided will be used to develop a 5-year strategic plan to direct programmatic focus and enhance the impact of the SRP program. SRP welcomes input from sister Superfund agency representatives (*i.e.* United States Environmental Protection Agency, US EPA; and Agency for Toxic Substances and Disease Registry, ATSDR), other government officials, environmental health researchers, academics, members of the private sector, policy makers, the lay public, and others with an interest in the effects of hazardous substances on public health. SRP is using an online questionnaire and public meetings to receive input.

DATES: Please respond online at the Superfund Research Program Strategic Planning web page by January 29, 2010, at *http://www.niehs.nih.gov/SRP/strategicplan.* Meeting dates and locations, when available, will be listed at the same Web page.

FOR FURTHER INFORMATION CONTACT: Other correspondence regarding this RFI should be directed to either (1) Ms. Beth Anderson, SRP Program Analyst, P.O. Box 12233, MD K3–04, Research Triangle Park, NC 27709, (phone) 919–541–4481, (e-mail) *tainer@niehs.nih.gov* or (2) Dr. Heather Henry, SRP Program Administrator, P.O. Box 12233, MD K3–04, Research Triangle Park, NC 27709, (phone) 919–541–5330, (e-mail) *henryh@niehs.nih.gov,* fax (919)316–4606.

SUPPLEMENTARY INFORMATION:

Information Requested

The SRP requests input on the following:

1. Respondent Affiliation: University—SRP-funded (current or past grantee); University—not SRP-funded, US EPA (office/division); ATSDR; Other Federal Government; State/Local Government; Industry; Small Business; Not-for-Profit; General Public; Other.

2. Respondent Additional Contact Information: e-mail, address, phone.

Scope of Science. Part of the SRP strategic planning process is to identify ways to prioritize programmatic direction and to achieve balance given the many competing demands for research on hazardous substances. Respondents may wish to consider: potential for exposure; contaminant recalcitrance; elucidating new toxicity modalities; balance between: hazardous waste & hazardous substances, basic & applied research; emerging & established contaminants, human health & ecological health.

3. Given the breadth of Program mandates, what prioritization criteria should SRP use to guide inclusion of themes and issues to achieve Program balance? Provide specific examples as necessary.

Interdisciplinary Research. To address the complexity of environmental health issues, SRP endorses interdisciplinary research, or, interactions between researchers from a wide range of disciplines relevant to Program mandates.

4. What approaches (research or otherwise) will mostly effectively foster interdisciplinary interactions?

Training. To fulfill SARA mandates, SRP supports graduate training within funded grants. Given the interdisciplinary context of SRP, graduate trainees are exposed to multiple disciplines and, therefore, are well positioned to meet the complex challenges in environmental health as well as mitigation and management of hazardous substances.

5. What approaches or activities should SRP consider to enhance the impact of graduate training?

Identifying Stakeholders. SRP defines ''stakeholders'' as individuals, groups, or organizations likely to benefit from the SRP. In order to maximize the impact of program science, it is important to know the SRP stakeholders and how to reach them.

6. Who are SRP's stakeholders and what approaches or mechanisms can SRP use to most effectively interact with them?

Research Translation. Research translation is a concerted effort to ensure research is accessible to end-users. SRP supports research translation activities with the goal of accelerating the useful application of SRP science advances. Respondents may wish to consider how the program can accelerate research translation through: effective methods of communication, data sharing, technology transfer, etc…

7. What are the best ways for SRP to achieve its goal of accelerating research translation?

Community Engagement. Community outreach has been a long tradition of the SRP. SRP seeks input to most appropriately focus its community involvement, given the context of a grant program mandated to address hazardous substances. Respondents may wish to consider: which communities to target, what the community needs, what approach is most effective, how to engage communities, etc...

8. What approaches to community engagement are most appropriate for SRP?

9. What disciplines are needed to make the greatest impact in community engagement? Grant Mechanisms. As a university-based grant program, SRP has flexibility to offer a number of grant mechanisms. Grant mechanisms specify the structure of the research team (such as single-project, multi-project), the size of the teams, the disciplines represented, etc. Please consider the following question from this perspective.

10. What research team structure(s) and/or disciplines are needed to make the greatest advances in SRP Program mandates?

11. Additional Comments.

The SRP Web site provides information about the program that may aid in answering the questions. The site can be accessed at *http://www.niehs.nih.gov/research/supported/srp/*. All questions, except for affiliation, are optional. Please limit each response to 300 words. Responses will be compiled and posted on the SRP Strategic Planning Web site (*http://www.niehs.nih.gov/SRP/strategicplan*), using affiliation as the only identifier. Information may be summarized and used at a later date. If you submit your responses in a word doc, we ask that you prepare your responses by restating the question in your responses. You may use a variety of tools to respond to the questionnaire; however, all responses must be received not later than January 29, 2010. The following are acceptable ways to submit your responses:

1. Fill out the online questionnaire available on the Superfund Research Program Strategic Planning web page: *http://www.niehs.nih.gov/SRP/strategicplan.*

2. Copy and paste the above questions into the body of an e-mail message and send your responses to: *srpinfo@niehs.nih.gov.*

3. Mail or fax your responses in a letter to the attention of ''SRP Strategic Planning'' at the below address.

Division of Extramural Research and Training, National Institute of Environmental Health Sciences, National Institutes of Health, U.S. Department of Health and Human Services, P.O. Box 12233 (MD K3–04), Research Triangle Park, NC 27709, (Fax) 919–316–4606.

In addition to the questionnaire above, SRP will be holding face-to-face and web-based seminars to receive input from the public. For more information about these seminars and the strategic planning process, please visit: *http://www.niehs.nih.gov/SRP/strategicplan.*

Attendance, Registration, and Remote Access

Participation is free and open to the public. Registration requirements are provided on the meeting web pages available from the SRP Strategic Planning Web site: *http://www.niehs.nih.gov/SRP/strategicplan.* Individuals with disabilities who require special reasonable accommodations should contact Dr. Heather Henry at least seven days prior to the event: (phone) 919–541–5330, (e-mail) *henryh@niehs.nih.gov,* fax (919) 316–4606.

Dated: December 14, 2009.

William A. Suk,

Director, Center for Risk and Integrated Sciences, Director, Superfund Research Program, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, National Institutes of Health.

[FR Doc. E9–30299 Filed 12–18–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2009–0144]

Privacy Act of 1974; U.S. Immigration and Customs Enforcement, DHS/ICE–004 Bond Management Information System (BMIS) System of Records

AGENCY: Privacy Office; DHS.

ACTION: Notice of amended Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to amend a U.S. Immigration and Customs Enforcement system of records titled DHS/ICE–004 Bond Management Information System (Sept. 11, 2008) to expand the categories of records. The categories of records have been updated to include the collection of certain additional information about individuals who post cash bonds for the release of detained aliens in the custody of U.S. Immigration and Customs Enforcement.

DATES: The established system of records will be effective January 20, 2010. Written comments must be submitted on or before January 20, 2010.

ADDRESSES: You may submit comments, identified by DHS–2009–0144 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 703–483–2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.
- *Docket:* For access to the docket to read background documents or comments received go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Lyn Rahilly, Privacy Officer, U.S. Immigration and Customs Enforcement, 500 12th Street, SW., Washington, DC 20536 (202–732–3300), or Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528 (703–235–0780).

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, the Department of Homeland Security (DHS) proposes to amend a U.S. Immigration and Customs Enforcement (ICE) system of records titled DHS/ICE–004 Bond Management Information System (73 FR 52865, Sept. 11, 2008) to expand the categories of records and to update the address of one of the system managers. This system of records contains paper and electronic records maintained by ICE to support its immigration bond administration and financial management activities related to the immigration bonds that are posted for detained aliens. The system of records is being amended to include the collection of certain additional information about individuals who post cash bonds for the release of detained aliens in ICE custody (called ''obligors''), specifically the obligor's citizenship or immigration status, and the type and number of government-issued identification used by the obligor when posting the cash bond.

Some of the information in this system of records is maintained in BMIS–Web, an immigration bond management database used by the ICE Office of Financial Management to track the life cycle of immigration bonds from the time an individual posts the bond at an ICE Detention and Removal Operations (DRO) field office until the bond is considered closed. The BMIS Web PIA was recently updated to reflect (1) the collection of additional information from the obligor as described above, (2) the establishment of new system connections with the ICE eBONDS application and ICE Federal Financial Management System (FFMS), and (3) the termination of a system connection due to the retirement of an ICE system known as the Debt Collection System (DCOS). The BMIS Web PIA Update is available on the Department of Homeland Security (DHS) Privacy Office Web site at *www.dhs.gov/privacy*.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates personally identifiable information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR part 5.

The Privacy Act requires each agency to publish in the Federal Register a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses to which personally identifiable information is put, and to assist individuals to more easily find such files within the agency. Below is the description of the BMIS system of records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this amended system of records to the Office of Management and Budget and to Congress.

SYSTEM OF RECORDS:

DHS/ICE–004.

SYSTEM NAME:

Bond Management Information System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at U.S. Immigration and Customs Enforcement (ICE) Headquarters in Washington, DC; ICE Office of Financial Management facilities in Williston, Vermont; and ICE field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include: individuals who post cash immigration bonds for aliens (known as obligors); aliens for whom an immigration bond is posted (known as bonded aliens); individuals that arrange for the posting of surety bonds for aliens (known as indemnitors); individual bond agents who post surety bonds; and notaries public and attorneys.

CATEGORIES OF RECORDS IN THE SYSTEM:

For the Obligor: name; Social Security Number/Tax Identification Number; address; phone number; U.S. citizenship or immigration status; and government-issued identification (type and number) shown at the time the bond is posted.

For the Bonded Alien: name; alien number; location (while in detention); address(es) and phone number of residence upon release; date and country of birth; nationality; and date and port of arrival;

For the Indemnitor: name; address(es); and phone number.

For the Bonding Agent: name; Tax Identification Number; address(es); and phone number.

General bond information, including: bond number; bond amount; securities pledged; bond types; bond status; location and date of posted bond; dates for bond-related activities, such as declaration of breach; names and titles of DHS officials that approve, cancel, or declare breaches of bonds; names and contact information for notary public and attorney in fact; information such as dates, forms, status and outcome, concerning motions to reconsider a breach or cancellation of bonds; and information such as dates, forms, status and outcome, about bond-related appeals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 103, 213, 236, 240B, and 293 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103, 1183, 1226, 1229c, and 1363, respectively).

PURPOSE(S):

The purpose of this system is to maintain records related to the administration and financial management operations of ICE's immigration bond program. Immigration bond administration includes the issuance, maintenance, cancellation, and revocation of bonds. Financial management operations include collection, reimbursement or forfeiture of the bond principal, and calculation and payment of interest, including issuance of IRS Form 1099 to the obligor reflecting interest paid on the bond.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when (1) DHS or any component thereof; (2) any employee of DHS in his/her official capacity; (3) any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or (4) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation; and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or other Federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. ICE suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. DHS has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information, or harm to the individual; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed

compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To the U.S. Treasury Department to facilitate payments owed to obligors and for the reporting of interest payments to the Internal Revenue Service.

I. To the Department of Justice, the U.S. Treasury Department, other appropriate federal agencies, state insurance regulators, credit bureaus, debt collection agencies, legal representatives for surety companies and bonding agencies, and insurance investigators to provide information relevant to (1) investigations of an agent or bonding agency that posts surety bonds, or (2) activities related to collection of unpaid monies owed to the U.S. Government on immigration bonds.

J. To agencies, individuals, or entities as necessary to locate individuals who are owed money or property connected with the issuance of an immigration bond.

K. To an individual or entity seeking to post or arrange, or who has already posted or arranged, an immigration bond for an alien to aid the individual or entity in (1) identifying the location of the alien, or (2) posting the bond, obtaining payments related to the bond, or conducting other administrative or financial management activities related to the bond.

L. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with legal counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies in accordance with 31 U.S.C. 3711(e).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on magnetic disc, tape, digital media, and CD–ROM.

RETRIEVABILITY:

Records may be retrieved by any of the following: bond number, Social Security or Tax Identification Numbers (SSN/TIN), alien name, alien number, obligor name, surety company name, or location and date bond was posted.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer systems containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions. The system maintains a real-time auditing function of individuals who access electronic records. Additional safeguards may vary by component and program.

RETENTION AND DISPOSAL:

Under the existing retention schedule, information is retained for six years and three months after the bond is closed or cancelled and the collateral is returned to the obligor. Copies of the Form I–352 (Immigration Bond) are placed into the alien's A–File and maintained for the life of that file (75 years).

SYSTEM MANAGER AND ADDRESS:

Director, Financial Systems Modernization, 800 K Street, NW., Washington, DC 20536; Director, Office of Detention and Removal Operations, 500 12th Street, SW., Washington, DC 20536.

NOTIFICATION PROCEDURE:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the component's FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''contacts.'' If an individual believes more than one component maintains Privacy Act records concerning him or her the individual may submit the request to the Chief Privacy Officer, Department of Homeland Security, 245 Murray Drive, SW., Building 410, STOP–0655, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty or perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Director, Disclosure and FOIA, *http://www.dhs.gov* or 1–866–431–0486. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you,
- Identify which component(s) of the Department you believe may have the information about you,
- Specify when you believe the records would have been created,
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records,
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) will not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Information is obtained from individuals, entities, indemnitors, surety companies, and bonding agencies and agents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: December 11, 2009.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E9–30265 Filed 12–18–09; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5374–N–02]

Buy American Exceptions Under the American Recovery and Reinvestment Act of 2009

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: In accordance with the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–05, approved February 17, 2009) (Recovery Act), and implementing guidance of the Office of Management and Budget (OMB), this notice advises that certain individual exceptions to the Buy American requirement of the Recovery Act have been determined applicable for work using Capital Fund Recovery Formula and Competition (CFRFC) grant funds. Specifically, exceptions were granted to the San Antonio Housing Authority in San Antonio, Texas, for the purchase and installation of a Variable Refrigerant Volume (VRV) heat recovery system for the Lewis Chatham modernization project, and to the Housing Authority of Portland, in Portland, Oregon, for the purchase of Farbo Marmoleum flooring for several modernization projects.

FOR FURTHER INFORMATION CONTACT: Dominique G. Blom, Deputy Assistant Secretary for Public Housing Investments, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4210, Washington, DC, 20410–4000, telephone number 202–402–8500 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Section 1605(a) of the Recovery Act imposes a ''Buy American'' requirement on Recovery Act funds used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. Section 1605(b) provides that the Buy American requirement shall not apply in any case or category in which the head of a Federal department or agency finds that: (1) Applying the Buy American requirement would be inconsistent with the public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the U.S. in sufficient and reasonably available quantities or of satisfactory quality, or (3) inclusion of iron, steel, and manufactured goods will increase the cost of the overall project by more than 25 percent. Section 1605(c) provides that if the head of a Federal department or agency makes a determination pursuant to section 1605(b), the head of the department or agency shall publish a detailed written justification in the **Federal Register**.

In accordance with section 1605(c) of the Recovery Act and OMB's implementing guidance published on April 23, 2009 (74 FR 18449), this notice advises the public that, on December 4, 2009, HUD granted the following two exceptions to the Buy American requirement:

1. *San Antonio Housing Authority.* Upon request of the San Antonio Housing Authority, HUD granted an exception to applicability of the Buy American requirements with respect to work, using CFRFC grant funds, in connection with the Lewis Chatham modernization project. The exception was granted by HUD on the basis that the relevant manufactured good is not produced in the U.S. in sufficient and reasonably available quantities or of satisfactory quality.

2. *Housing Authority of Portland.* Upon request of the Housing Authority of Portland, HUD granted an exception to applicability of the Buy American requirements with respect to work, using CFRFC grant funds, in connection with several modernization projects to replace the flooring. The exception was granted by HUD on the basis that the relevant manufactured goods are not produced in the U.S. in sufficient and reasonably available quantities or of satisfactory quality.

Dated: *December 15, 2009.*

Sandra B. Henriquez,

Assistant Secretary for Public and Indian Housing.

[FR Doc. E9–30282 Filed 12–16–09; 4:15 pm]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Advisory Board for Exceptional Children

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Bureau of Indian Education (BIE) is announcing the Advisory Board for Exceptional Children will hold its next meeting in Albuquerque, New Mexico. The purpose of the meeting is to meet the mandates of the Individuals with Disabilities Education Act of 2004 (IDEA) on Indian children with disabilities.

DATES: The Advisory Board will meet on Monday, January 11, 2010, from 8:30 a.m. to 4:30 p.m. and Tuesday, January 12, 2010, from 8:30 a.m. to 4:30 p.m. Mountain Standard Time.

ADDRESSES: The meetings will be held at the Bureau of Indian Affairs, Building 2, 1011 Indian School Road North West, Room 271, Albuquerque, New Mexico 87104; telephone (505) 563–5274.

FOR FURTHER INFORMATION CONTACT: Sue Bement, Designated Federal Official, Bureau of Indian Education, Albuquerque Service Center, Division of Performance and Accountability, 1011 Indian School Road NW., P.O. Box 1088, Suite 332, Albuquerque, New Mexico 87103; telephone (505) 563–5274.

SUPPLEMENTARY INFORMATION: The Advisory Board was established to advise the Secretary of the Interior, through the Assistant Secretary—Indian Affairs, on the needs of Indian children with disabilities, as mandated by the Individuals with Disabilities Act of 2004 (Pub. L. 108–446). The meetings are open to the public.

The following items will be on the agenda:

- Setting Advisory Board Priorities for 2010–2011
- Public Comment (via conference call, January 11, 2010, meeting only*)
- Report from Gloria Yepa, Supervisory Education Specialist, Bureau of Indian Education, Division of Performance and Accountability
- Appointment of Advisory Board Vice Chair
- Updates on Coordination of Services
- Panel discussion with Special Education faculty, General Education faculty and Related Service providers from Sky City Community School, Acoma, New Mexico

• Discussion of new Charter

* During the January 11, 2010, meeting, time has been set aside for public comment via conference call from 1–1:30 p.m. Mountain Standard Time. The call-in information is: Conference Number 1–888–387–8686, Passcode 4274201.

Dated: December 10, 2009.

George T. Skibine,

Acting Principal Deputy, Assistant Secretary—Indian Affairs.

[FR Doc. E9–30321 Filed 12–18–09; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proclaiming Certain Lands Known as the Pecos Pueblo Grant as an Addition to the Reservation for the Pueblo of Jemez, New Mexico

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Reservation Proclamation.

SUMMARY: This notice informs the public that the Assistant Secretary-Indian Affairs proclaimed approximately 5.0 acres, more or less, to be added to the Reservation of the Pueblo of Jemez, New Mexico.

FOR FURTHER INFORMATION CONTACT: Ben Burshia, Bureau of Indian Affairs, Division of Real Estate Services, MS–4639–MIB, 1849 C Street, NW., Washington, DC 20240, telephone (202) 208–7737.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by Part 209 of the Departmental Manual.

A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467), for the tract of land described below. The land was proclaimed to be an addition to and part of the Reservation of the Pueblo of Jemez for the exclusive use of Indians on that reservation who are entitled to reside at the reservation by enrollment or tribal membership.

New Mexico Principal Meridian

Santa Fe County, New Mexico

A Parcel of land, containing 5.0 acres, more or less, known as Tract Two (2) within Private Claim 340 in the Pecos Pueblo Grant, Santa Fe County, New Mexico, more particularly described as follows:

Beginning at the Southeast corner of the tract, from whence a U.S.G.L.O. Brass Cap set for the ¼ corner common to Section 36, T 16 N, R 11 E and Section 31, T 16 N, R 12 E, bears:

S 0° 15′ 55″ E 980.88 feet;
S 89° 45′ 24″ E 788.54 feet;
S 0° 02′ 41″ E 1373.22 feet, thence from said point and place of beginning along the following bearings and distances;
N 89° 56′ 10″ W 444.10 feet to the Southwest corner;
N 0° 15′ 55″ W 490.44 feet to the Northwest corner;
S 89° 56′ 10″ E 444.10 feet to the Northeast corner;
S 0° 15′ 55″ E 490.44 feet to the point of beginning.

Being and intended to be the Tract 2 as shown on survey by Robert L. Benavides, dated December, 1980, as Survey No. A–274.

The above-described lands contain a total of 5.0 acres, more or less, which are subject to all valid rights, reservations, rights-of-way, and easements of record.

This proclamation does not affect any of the following: (1) Title to the land described above; (2) valid existing easements for public roads, highways, or utilities; (3) valid existing easements for railroads or pipelines; or (4) other rights-of-way or reservations of record.

Dated: December 10, 2009.

George T. Skibine,

Acting Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. E9–30320 Filed 12–18–09; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Finding for Federal Acknowledgment of the Shinnecock Indian Nation

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed finding.

SUMMARY: The Department of the Interior (Department) gives notice that the Acting Principal Deputy Assistant Secretary—Indian Affairs (PDAS–IA) proposes to determine that the Shinnecock Indian Nation, P.O. Box 5006, Southampton, NY 11969–0751, c/o Messrs. Frederick C. Bess, Randall King, and Gordell Wright, is an Indian Tribe within the meaning of Federal law. This notice is based on a preliminary finding that the petitioner satisfies the seven mandatory criteria for acknowledgment set forth in the applicable regulations, and thus, meets the requirements for a government-to-government relationship with the United States.

DATES: Comments on this proposed finding (PF) are due on or before March 22, 2010. The petitioner then has until April 20, 2010 to respond to those comments. Requests for a formal, on-the-record technical assistance meeting must be received by the Department by January 20, 2010. *See* the **SUPPLEMENTARY INFORMATION** section of this notice for more information about these dates.

ADDRESSES: Comments on the PF and/or requests for a copy of the report of the summary evaluation of the evidence should be addressed to the Office of the Assistant Secretary—Indian Affairs, *Attention:* Office of Federal Acknowledgment, 1951 Constitution Avenue, NW., MS: 34B–SIB, Washington, DC 20240. Interested and informed parties who make submissions to the Assistant Secretary—Indian Affairs (AS–IA) must also provide copies to the petitioner at Shinnecock Indian Nation, P.O. Box 5006, Southampton, NY 11969–0751, c/o Messrs. Frederick C. Bess, Randall King, and Gordell Wright.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Director, Office of Federal Acknowledgment, (202) 513–7650.

SUPPLEMENTARY INFORMATION: Pursuant to 25 CFR 83.10(h), the Department gives notice that the Acting PDAS–IA proposes to determine that the Shinnecock Indian Nation, P.O. Box 5006, Southampton, NY 11969–0751, c/o Messrs. Frederick C. Bess, Randall King, and Gordell Wright, is an Indian Tribe within the meaning of Federal law. This notice is based on a preliminary finding that the petitioner satisfies the seven mandatory criteria for acknowledgment set forth in 25 CFR 83.7(a) through (g), and thus, meets the requirements for a government-to-government relationship with the United States.

The Department publishes this notice in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs (AS–IA) by 209 DM 8. The AS–IA delegated authority to sign some Federal acknowledgment findings, including this PF, to the Acting PDAS–IA effective June 4, 2009.

The Shinnecock Indian Nation, Petitioner #4, submitted a letter of intent to petition for Federal acknowledgment on February 8, 1978. It submitted partial documentation in 1998, and made multiple submissions in 2003. The petition was ready for evaluation on September 15, 2003. Under the May 23, 2008, **Federal Register** notice of

guidance and direction regarding OFA's internal procedures (73 FR 30146), OFA recommended a waiver of the regulatory provisions regarding the priority for consideration of the petitioner. The AS–IA placed the Shinnecock petitioner on active consideration November 10, 2008, ahead of six other petitioners.

The Shinnecock petitioner claims that the Federal Government recognized it at various times from 1889 to the present, and, therefore, it would be eligible to be evaluated under 25 CFR 83.8, which reduces the burden of evidence required of previously acknowledged petitioners. The evidence in the record shows that the Federal Government was aware of the Shinnecock, but never established a relationship with it. To qualify for evaluation under § 83.8, there must be substantial evidence that the Federal Government, by its actions, unambiguously established a political relationship with the petitioner as an Indian Tribe, not that the Federal Government was merely aware of the petitioner's existence. There is not substantial evidence of unambiguous Federal acknowledgment in the record. Therefore, the petitioner is not eligible to be evaluated under 25 CFR 83.8. An evaluation under section § 83.7 rather than section § 83.8 does not result in a different finding. Whether the petitioner is eligible to be evaluated under § 83.8 of the regulations is subject to reconsideration at the time of the final determination.

The May 23, 2008, **Federal Register** notice of guidance and direction included a provision interpreting ''first sustained contact'' as on or after March 4, 1789, thus ''reducing the time period for which petitioners must submit evidence.'' Petitioners like the Shinnecock, which experienced first sustained non-Indian contact prior to March 4, 1789, are required to demonstrate continuous existence from 1789 only.

The Shinnecock Indians lived on a historical land base on and near Shinnecock Neck, near the eastern end of Long Island, New York, since first contact in the early 1600s to the present. In 1703, the Town of Southampton agreed to lease approximately 3,500 acres of the Shinnecock Hills and Neck to the Shinnecock Indians for 1,000 years. In 1792, the New York Assembly passed legislation that reorganized the Indians on the Shinnecock leasehold under a three-man Indian Trusteeship in which the Indians would elect trustees annually. In 1859, the State of New York passed legislation regarding the 1,000-year lease to the Shinnecock Indians and granted the Shinnecock Indians title in fee simple to a much smaller parcel of land. This reduced land base, consisting of approximately 650 acres, is the current New York State ''reservation'' inhabited by the Shinnecock petitioner today.

The Shinnecock petitioner meets criterion 83.7(a), because external observers have identified it as an American Indian entity on a substantially continuous basis since 1900. The record contains acceptable identifications of the petitioner nearly every year since 1900; this is sufficient to satisfy the criterion. Evidence that identifies the petitioner appears in the records of the Town of Southampton, the State of New York, and the Federal Government. Furthermore, scholarly writings identify the petitioner as an American Indian entity, as do writings from newspapers and magazines. Although some documents in the record express doubt that the petitioner is an American Indian entity, the criterion allows for occasional questioning of the petitioner's Indian character, holding that such evidence ''shall not be considered to be conclusive evidence that this criterion has not been met.'' Therefore, the petitioner satisfies criterion 83.7(a).

The Shinnecock petitioner meets criterion 83.7(b) under a ''cross-over'' provision in the regulations at § 83.7(b)(2)(v). This cross-over provision allows groups to meet criterion 83.7(b) for a particular period in time provided that they meet criterion 83.7(c) during that same period using a form of evidence which is sufficient in itself to demonstrate political influence and authority. Such forms of evidence are described at § 83.7(c)(2). The Shinnecock petitioner meets criterion 83.7(b) from 1789 to the present because it meets criterion 83.7(c) during that same period using the form of evidence described in § 83.7(c)(2)(i).

The Shinnecock petitioner meets criterion 83.7(c) from 1789 to the present using the form of evidence described at § 83.7(c)(2)(i), that a petitioner allocates ''group resources such as land, residence rights and the like on a consistent basis.'' This form of evidence is sufficient in itself to demonstrate the presence of political influence within a group as required by criterion 83.7(c). The evidence in the record demonstrates that the Indian group located at Shinnecock Neck and its leaders have maintained a Trusteeship system that has allocated land, residence rights, and the like from 1789 to the present. The Shinnecock petitioner also defended its common land base through litigation, and the Shinnecock petitioner has managed the land base for the benefit of the group's members. The evidence for political influence and authority showing the petitioner meets criterion § 83.7(c)(2) from 1789 to the present also provides sufficient cross-over evidence to demonstrate the Shinnecock petitioner meets criterion § 83.7(b) for community from 1789 to the present as provided at § 83.7(b)(2)(v).

The Shinnecock petitioner meets the requirements of criterion § 83.7(d), even though it does not have a formal, written governing document. A combination of written statements, historical New York State legislation, and group actions define the historical governance of the group. Meeting minutes reflect the petitioner's efforts since 2003 to finalize a constitution. Historically, the petitioner required that any individual awarded an allotment of land on the reservation be a ''Blood Shinnecock,'' that is, a descendant of any of four historical individuals born between 1757 and 1810: Paul Cuffee, James Bunn, Charles Kellis, or David Waukus. Since 1978, the petitioner has developed membership criteria that require a demonstration of descent from a Shinnecock reservation resident as enumerated on the Indian Population schedule of the 1900 or 1910 Federal census of Southampton, Suffolk County, New York.

The Shinnecock petitioner meets the requirements of criterion 83.7(e). The petitioner's membership list of January 8, 2009, includes 1,066 adult and minor members. A total of 1,022 of these members, or 96 percent, demonstrate descent from Indian residents of the 1865 Shinnecock reservation, which the Department determined to be a reliable list of members of the historical Shinnecock Tribe for the purposes of this PF.

The petitioner submitted membership lists in 1998 (1,363 members), 2003 (1,330 members), 2008 (994 members and 275 members ''placed in pending file''), and 2009 (1,066 members). No new members have been added since 1998. In January 2009, the petitioner ''disenrolled'' 201 members when it determined there was insufficient evidence of descent and furnished descent documentation for most of the 169 individuals submitted as ''potential'' members. Evidence shows that some disenrolled members reside on the reservation and were permitted to vote in the 2009 trustee election, and that some potential members reside on the reservation and were permitted to vote in 2009 and previous trustee elections. The 2009 trustee voter list includes three other individuals not on any type of membership list. For these reasons, the Department's evaluation

was not limited to the 2009 membership list.

Evidence identifies 113 historical individuals associated with the Shinnecock reservation 1792–1799, but the petitioner's members demonstrate descent from individuals appearing on or near the reservation after that time. A few pre-1800 reservation residents continued to serve as Shinnecock trustees and petition signers through the 1820s alongside individuals who most likely include those known to have married Shinnecock women before 1800, but whose identities are not in the record. Genealogical evidence demonstrates that descendants of some of the 1800–1820s reservation residents resided on the reservation in 1865. Additional evidence for the Shinnecock population 1800–1865 may be submitted during the comment period to provide further context.

The Department finds that the historical Tribe is the Shinnecock Indian Tribe of the Shinnecock leasehold in 1789. This historical Indian Tribe continued to evolve and exist up to 1865. The earliest record to state plainly that it is an enumeration of all residents of the Shinnecock reservation is in the 1865 New York State census of Southampton. For purposes of criterion 83.7(e), current members who demonstrate descent from an Indian on the 1865 State census of the Shinnecock reservation are deemed to demonstrate descent from the historical Shinnecock Tribe. The petitioner demonstrates such descent at an acceptable level whether the analysis considers the current members only (1,022 of 1,066, or 96 percent), the current and disenrolled members (1,030 of 1,267, or 81 percent), or the current, disenrolled, and potential members (1,178 of 1,436, or 82 percent). The current, disenrolled, and potential members who lack evidence of descent for the PF are closely related as kin to current members with demonstrated descent from the 1865 reservation residents. The Department anticipates that they should be able to locate the documentation necessary to resolve the few missing generation-to-generation connections.

The Shinnecock petitioner meets the requirements of criterion 83.7(f). Since the petition contained evidence of only four members enrolled in Federally recognized Tribes, OFA researchers did not examine any Tribal rolls for the presence of the petitioner's members. Evidence in the record indicates that the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian Tribes.

The Shinnecock petitioner meets criterion 83.7(g), because there is no evidence that Congress has either terminated or forbidden a Federal relationship with the petitioner or its members.

Based on this preliminary factual determination, the Department proposes to extend Federal acknowledgment under 25 CFR Part 83 to the petitioner known as the Shinnecock Indian Nation.

As provided by 25 CFR 83.10(h) of the regulations, a report summarizing the evidence, reasoning, and analyses that are the basis for the proposed decision will be provided to the petitioner and interested parties, and is available to other parties upon written request. Requests for a copy of the report of evidence should be addressed to the Federal Government as instructed in the **ADDRESSES** section of this notice. It will be posted on the Department's Indian Affairs Web site at *http://www.bia.gov.*

Consistent with 25 CFR 83.10(l), the Department will consult with the petitioner within two weeks of the close of the response period (or the close of the comment period if neither the petitioner nor parties submit comments or Shinnecock waives its response period to submissions) to discuss any issues related to an equitable timeframe for consideration of all written arguments and evidence received during the comment and response periods. The Department will issue a final determination (FD) regarding the petitioner's status within 60 days of the date active consideration begins for the Shinnecock FD.

This PF meets the December 15, 2009, deadline the petitioner and U.S. negotiated in a settlement agreement that the Court approved by order on May 26, 2009, in *Shinnecock* v. *Salazar,* No. CV–06–5013, 1 (E.D.N.Y.). To the extent that the schedule for processing the Shinnecock petition under the agreement differs from the regulatory timelines provided by the regulations in 25 CFR Part 83, the settlement agreement controls. Under the terms of the settlement agreement, any individual or organization wishing to challenge or support the PF may submit factual or legal arguments and evidence, to rebut or support the evidence relied upon, by the date set out in the **ADDRESSES** section of this notice. However, if the Shinnecock petitioner or an interested party requests additional time in writing, the Department will extend the comment period to the full 180 days that would otherwise be available under the regulations at 83.10(i).

During the comment period, the Shinnecock petitioner and the interested parties may request in writing that the AS–IA hold a formal, on-the-record technical assistance meeting as provided by the acknowledgment regulations at § 83.10(j)(2). To accommodate the shortened comment period, requests for such a meeting on the Shinnecock PF must be received by the Department within 30 calendar days of the publication of this **Federal Register** notice.

The settlement agreement provides the petitioner 30 days to respond to comments on the PF submitted by interested or informed parties. This reduced response period starts automatically at the close of the comment period. The petitioner may request restoration of the full 60-day response period, although it must notify the Department in writing prior to the close of the response period. If parties do not submit comments or if the petitioner submits a written waiver to the interested and informed party submissions, the response period will not apply.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 14, 2009.

George T. Skibine,

Acting Principal Deputy, Assistant Secretary—Indian Affairs.

[FR Doc. E9–30209 Filed 12–18–09; 8:45 am]

BILLING CODE 4310–G1–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2009-XXXXX; 81420–1113–0000–F3]

Proposed Programmatic Safe Harbor Agreement for the Sacramento River Conservation Area Forum in Shasta, Tehama, Butte, Glenn, Colusa, Yolo, and Sutter Counties, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; receipt of application.

SUMMARY: This notice advises the public that the Sacramento River Conservation Area Forum (Applicant) has applied to

the U.S. Fish and Wildlife Service (Service) for an Enhancement of Survival Permit under the Endangered Species Act of 1973, as amended (Act). The permit application includes a proposed Safe Harbor Agreement (Agreement) between the Applicant and the Service for the Federally threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) and the Federally threatened giant garter snake (*Thamnophis gigas*) (collectively referred to as the Covered Species). The Agreement is available for public comment.

DATES: To ensure consideration, please send your written comments by January 20, 2010.

ADDRESSES: Send comments to Ms. Kathy Brown, via U.S. Mail at U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, California 95825; or via facsimile to (916) 414–6713.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Brown, Sacramento Fish and Wildlife Office (*see* **ADDRESSES**); *telephone:* (916) 414–6600.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may obtain copies of the document for review by contacting the individual named above. You may also make an appointment to view the document at the above address during normal business hours.

Background

Under a Safe Harbor Agreement, participating landowners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefiting species listed under the Act (16 U.S.C. 1531 *et seq.*). Safe Harbor Agreements, and the subsequent Enhancement of Survival Permits that are issued pursuant to Section 10(a)(1)(A) of the Act, encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners that they will not be subjected to increased property use restrictions as a result of their efforts to attract listed species to their property, or to increase the numbers or distribution of listed species already on their property. Application requirements and issuance criteria for Enhancement of Survival Permits through Safe Harbor Agreements are found in 50 CFR 17.22(c) and 17.32(c). These permits allow any necessary future incidental take of covered species above the mutually agreed upon baseline conditions for those species in accordance with the terms and conditions of the permits and accompanying agreements.

This Agreement was developed by the Service and the Applicant. The Sacramento River Conservation Area Forum is a non-profit organization that evolved from 1986 State of California legislation (SB1086). The legislation called for a management plan to protect, restore and enhance the fisheries and riparian habitat along the Sacramento River from Keswick Dam down river to Verona, California. This effort is cooperative in nature and works to ensure that habitat restoration and management addresses not only the dynamics of riparian ecosystems, but also the realities of local agricultural and recreational issues associated with land use changes occurring along the Sacramento River.

The Agreement is expected to promote the recovery of the Covered Species on non-Federal properties within the Sacramento River Conservation Area within Shasta, Tehama, Butte, Glenn, Colusa, Yolo, and Sutter Counties. The proposed duration of the Agreement and the associated Enhancement of Survival permit are 30 years. The proposed Enhancement of Survival permit would authorize the incidental taking of the Covered Species associated with: the restoration, enhancement, and maintenance of suitable habitat for the Covered Species; routine activities associated with agricultural lands management; minor flood risk management; and the potential future return of any property included in the Agreement to baseline conditions. Under this Agreement, individual landowners (Cooperators) may include their properties by entering into a Cooperative Agreement with the Applicant. Each Cooperative Agreement will specify the restoration and/or enhancement, and management activities to be carried out on that specific property and a timetable for implementing those activities. All Cooperative Agreements will be reviewed by the Service to determine whether the proposed activities will result in a net conservation benefit for the Covered Species and meet all required standards of the Safe Harbor Policy (64 FR 32717). Upon Service approval, the Applicant will issue a Certificate of Inclusion to the Cooperator. Each Certificate of Inclusion will extend the incidental take coverage conferred by the Enhancement of Survival permit to the Cooperator. Certificates of Inclusion will be valid for a period of 10 years and are renewable during the 30-year term of the Enhancement of Survival permit. Specific determinations for which species will be covered under each Cooperative Agreement will be determined by the Service on a case by case basis and will depend on the type of habitat present and the restoration and/or enhancement activities that will be implemented by the Cooperator.

Baseline levels for the Covered Species will be determined by completing the Baseline Habitat Worksheet (Attachment 4 of the Agreement), which will be completed by a person approved by the Service. The Service will review each baseline determination prior to the Applicant issuing a Certificate of Inclusion to the Cooperator. The Agreement also contains a monitoring component that requires the Applicant to ensure that the Cooperators are in compliance with the terms and conditions of the Agreement and maintaining baseline levels of habitat for the Covered Species. Results of these monitoring efforts will be provided to the Service by the Applicant in an annual report.

Upon approval of this Agreement, and consistent with the Service's Safe Harbor Policy (64 FR 32717), the Service would issue an Enhancement of Survival permit to the Applicant. This permit will authorize Cooperators issued a Certificate of Inclusion take of the Covered Species incidental to the implementation of the management activities specified in the Agreement, incidental to other lawful uses of the property including normal, routine land management activities, and to return to baseline conditions if desired. An applicant would receive assurances under our ''No Surprises'' regulations (50 CFR 17.22(c)(5) and 17.32(c)(5)) for all species included in the Enhancement of Survival permit. In addition to meeting other criteria, actions to be performed under an Enhancement of Survival permit must not jeopardize the existence of Federally listed fish, wildlife, or plants.

Public Review and Comments

The Service has made a preliminary determination that the proposed Agreement and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA). We explain the basis for this determination in an Environmental Action Statement that is also available for public review.

Individuals wishing copies of the Environmental Action Statement, and/or copies of the full text of the Agreement, including a map of the proposed permit area, should contact the office and personnel listed in the **ADDRESSES** section above.

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.

The Service will evaluate this permit application, associated documents, and comments submitted thereon to determine whether the permit application meets the requirements of section 10(a) of the Act and NEPA regulations. If the Service determines that the requirements are met, we will sign the proposed Agreement and issue an enhancement of survival permit under section 10(a)(1)(A) of the Act to the Applicant for take of the Covered Species incidental to otherwise lawful activities in accordance with the terms of the Agreement. The Service will not make our final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

The Service provides this notice pursuant to section 10(c) of the Act and pursuant to implementing regulations for NEPA (40 CFR 1506.6).

Dated: December 14, 2009.

Susan K. Moore,

Field Supervisor, Sacramento Fish and Wildlife Office, Sacramento, California.

[FR Doc. E9–30207 Filed 12–18–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on December 15, 2009, a proposed Consent Decree (the ''Decree'') in *United States* v. *Littlestown Foundry, Inc.,* Civil Action No. 1:08-cv-00314, was lodged with the United States District Court for the District of New Jersey.

In a complaint, filed on April 24, 2008, the United States alleged that Littlestown Foundry, Inc., was liable pursuant to Section 107(a)(3) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9607(a)(3), for response costs incurred by the Environmental Protection Agency (''EPA'') in cleaning up the Pioneer Smelting Superfund Site located at Factory Road, Route 532, in Chatsworth, New Jersey.

Pursuant to the Decree, Littlestown Foundry, Inc., will be responsible for paying the United States $200,000 to resolve any claim the United States has associated with costs incurred by EPA at the Pioneer Smelting Superfund Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Littlestown Foundry, Inc.,* D.J. Ref. 90–11–2–09344.

During the public comment period, the Decree may be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $7.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9–30193 Filed 12–18–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0043]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: National Tracing Center Trace Request.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 74, Number 200, page 53520 on October 19, 2009, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until January 20, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the 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:* National Tracing Center Trace Request.

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

collection: Form Number: ATF F 3312.1. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Federal Government. Other: State, Local, or Tribal Government. *Abstract:* The form is used by the Federal, State, Local, and International law enforcement community to request that ATF trace firearms used, or suspected to have been used, in crimes.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 112,123 respondents, who will complete either form within approximately 6 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 11,212 total burden hours associated with this collection.

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

Dated: December 15, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9–30226 Filed 12–18–09; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0025]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: Extension of a currently approved collection, Limited Permittee Transaction Report.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 74, Number 200, page 53519 on October 19, 2009, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until January 20, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

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:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic 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:* Limited Permittee Transaction Report.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF 5400.4. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. *Other:* Business or other for-profit. *Abstract:* The purpose of this collection is to enable ATF to determine whether limited permittees have exceeded the number of receipts of explosive materials they are allowed and to determine the eligibility of such persons to purchase explosive materials.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 400 respondents, who will complete the form within approximately 20 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 792 total burden hours associated with this collection.

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

Dated: December 15, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9–30228 Filed 12–18–09; 8:45 am]

BILLING CODE 4410–FB–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0064]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: Application for Restoration of Explosives Privileges.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 74, Number 200, page 53513 on October 19, 2009, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until January 20, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public

burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Restoration of Explosives Privileges.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF F 5400.29. 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:* Individual or households. *Other:* Business or other for-profit. *Abstract:* ATF F 5400.29 is required in order to determine whether or not explosives privileges may be restored. The form is used to conduct an investigation to establish if it is likely that the applicant will act in a manner dangerous to pubic safety or contrary to public interest.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 500 respondents, who will complete the form within approximately 30 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 250 total burden hours associated with this collection.

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

Dated: December 15, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9–30315 Filed 12–18–09; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0075]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: Transactions Among Licensees/Permittees, Limited.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 74n, Number 200, page 53513 on October 19, 2009, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until January 20, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Transactions Among Licensees/ Permittees, Limited.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* None. *Abstract:* A licensed importer, licensed manufacturer, or licensed dealer may distribute explosive materials to a holder of a limited permit if the holder of such permit is a resident of the same State in which the licensee's business premise is located. A holder of a limited permit may receive explosive materials on no more than 6 separate occasions during the one-year period of the permit. A holder of a user permit may dispose of surplus stocks of explosive materials to the holder of a limited permit who is a resident of the same State in which the premises of the holder of the user permit are located. A licensed importer, licensed manufacturer, licensed dealer or permittee, must, prior to delivering the explosive materials, obtain from the limited permittee a current list of the persons who are authorized to accept

delivers of the explosive materials on behalf of the limited permittee.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 50,000 respondents, who will complete the form within approximately 30 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 25,000 total burden hours associated with this collection.

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

Dated: December 15, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9–30314 Filed 12–18–09; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0006]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: Application and Permit for Importation of Firearms, Ammunition and Implements of War.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 74, Number 200, page 53514 on October 19, 2009, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until January 20, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

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

(2) *Title of the Form/Collection:* Application and Permit for Importation of Firearms, Ammunition and Implements of War.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF F 6, Part II (5330.3B). Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. *Other:* Business or other for-profit, Federal Government, State, Local, or Tribal Government. Abstract: The information collection is needed to determine whether firearms, ammunition and implements of war are eligible for importation into the United States. The information is used to secure authorization to import such articles. The form is used by persons who are members of the United States Armed Forces.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 9,000 respondents, who will complete the form within approximately 30 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 4,500 total burden hours associated with this collection.

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

Dated: December 15, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9–30233 Filed 12–18–09; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Interchangeable Virtual Instruments Foundation, Inc.

Notice is hereby given that, on December 1, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act'') Interchangeable Virtual Instruments Foundation, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Flextronics International, Karlskrona, Sweden has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Interchangeable Virtual Instruments Foundation, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 29, 2001, Interchangeable Virtual Instruments Foundation, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the

Federal Register pursuant to Section 6(b) of the Act on July 30, 2001 (66 FR 39336).

The last notification was filed with the Department on September 10, 2009. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 22, 2009 (74 FR 54595).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9–30208 Filed 12–18–09; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on December 1, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et sect.* (''the Act''), IMS Global Learning Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Adaptive Technology Resource Centre, Toronto, Ontario, CANADA; Marist College, Poughkeepsie, NY; UNED, Madrid, SPAIN; Hanyang Cyber University (HYCU), Seongdong-gu, Seoul, REPUBLIC OF KOREA; Seoul Cyber University (SCU), Gangbuk-gu, Seoul, REPUBLIC OF KOREA; and University of Mary Washington, Fredericksburg, VA have been added as parties to this venture.

Also, New Publishing Solutions, Sparta, NJ; University of Toronto, Faculty of Info. Studies, Toronto, Ontario, CANADA; Miami-Dade College—Virtual College, Miami, FL; Ucompass.com, Inc., Tallahassee, FL; and Georgetown University, Washington, DC have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global Learning Consortium, Inc. intends to file additional written notifications disclosing all changes in membership.

On April 7, 2000, INS Global Learning Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on September 17, 2009. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 22, 2009 (74 FR 54595).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9–30210 Filed 12–18–09; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

December 15, 2009.

The Department of Labor (DOL) hereby announces the submission of the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/e-mail: *DOL_PRA_PUBLIC@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, *Attn:* OMB Desk Officer for the Department of Labor—Mine Safety and Health Administration (MSHA), Office of Management and Budget, 725 17th Street, NW., Room 10235, Washington, DC 20503, *Telephone:* 202–395–4816/*Fax:* 202–395–5806 (these are not toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the applicable OMB Control Number (*see* below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Mine Safety and Health Administration.

Type of Review: Extension without change of currently approved collection.

Title of Collection: Gamma Radiation Exposure Records.

OMB Control Number: 1219–0039.

Form Number: N/A.

Estimated Number of Respondents: 4.

Estimated Total Annual Burden Hours: 8.

Estimated Total Annual Cost Burden (does not include hourly wage costs): $0.

Affected Public: Business or other for profits (metal and non-metal underground mines).

Description: The Department's regulations at 30 CFR 57.5047 require records to be kept of cumulative individual gamma radiation exposure to ensure that annual exposure does not exceed 5 Rems per year. MSHA uses this information to evaluate the effectiveness of a mine operator's protection program in demonstrating compliance with the radiation standards. The information collected on cumulative occupational radiation exposures serves two purposes: (1) It aids MSHA in their efforts to protect the health and safety of the workers, and (2) it aids MSHA in developing prevention and control methods for subsequent radiation exposure. For additional information, see related notice published in the **Federal Register** on September 23, 2009, at Vol. 74, page 40610.

Agency: Mine Safety and Health Administration.

Type of Review: Extension without change of currently approved collection.

Title of Collection: Mine Rescue Teams; Arrangements for Emergency Medical Assistance; and Arrangements for Transportation for Injured Persons.

OMB Control Number: 1219–0078.

Form Number: MSHA 5000–3.

Estimated Number of Respondents: 224.

Estimated Total Annual Burden Hours: 8,825.

Estimated Total Annual Cost Burden (does not include hourly wage costs): $243,049.

Affected Public: Business or other for profits (metal and nonmetal mines).

Description: The Department's regulations at 30 CFR part 49 set standards relating to the availability of mine rescue teams; alternate mine rescue capability for small and remote mines and mines with special mining conditions; inspection and maintenance records of mine rescue equipment and apparatus; physical requirements for mine rescue team members and alternates; and experience and training requirements for team members and alternates. The information collection requirements contained in 30 CFR part 49 are used by mine operators, miners, and MSHA to formulate an appropriate rescue capability within the guidelines set forth in these standards. For additional information, see related notice published in the **Federal Register** on October 15, 2009, at Vol. 74, page 52979.

Agency: Mine Safety and Health Administration.

Type of Review: Extension without change of currently approved collection.

Title of Collection: Daily Inspection of Surface Coal Mines; Certified Person; Reports of Inspection.

OMB Control Number: 1219–0083.

Form Number: N/A.

Estimated Number of Respondents: 1,442.

Estimated Total Annual Burden Hours: 674,856.

Estimated Total Annual Cost Burden (does not include hourly wage costs): $0.

Affected Public: Business or other for profits (surface coal mines).

Description: 30 CFR 77.1713 requires operators of surface coal mines and surface facilities to keep records of the results of required examinations for hazardous conditions. These records consist of the nature and location of any hazardous condition found and the actions taken to abate the hazardous condition. The records are used by the MSHA inspectors to determine compliance with the standard, and that any hazards found have either been corrected or barricaded. Mine operators use these records to identify areas of the mine or equipment that present hazards to miners and, therefore, must be corrected to prevent miner injuries or death. Repeated hazardous conditions in any area or involving a particular piece of equipment would indicate to the operator the need for modification of operating procedures or replacement or repair of equipment. For additional information, see related notice published in the **Federal Register** on October 9, 2009, at Vol. 74, page 52260.

Agency: Mine Safety and Health Administration.

Type of Review: Extension without change of currently approved collection.

Title of Collection: Explosive Materials and Blasting Units.

OMB Control Number: 1219–0095.

Form Number: N/A.

Estimated Number of Respondents: 1.

Estimated Total Annual Burden Hours: 1.

Estimated Total Annual Cost Burden (does not include hourly wage costs): $0.

Affected Public: Business or other for profits (metal and nonmetal underground mines deemed to be gassy).

Description: The Department's regulations at 30 CFR 57.22606(a) provide procedures by which a mine operator shall notify MSHA of all explosive materials and blasting units prior to their use in underground gassy metal and nonmetal mines. MSHA uses the information provided by the mine operator to determine whether nonapproved blasting materials and explosives and procedures are safe for use in a gassy underground metal or nonmetal mine. Without such determinations, miners may be exposed to significant safety risks. For additional information, see related notice published in the **Federal Register** on September 28, 2009, at Vol. 74, page 49401.

Darrin A. King,

Departmental Clearance Officer.

[FR Doc. E9–30191 Filed 12–18–09; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,668]

Tenneco, Inc., Including On-Site Leased Workers From Elite Staffing, Inc., Cozad, NE; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on January 15, 2009, applicable to workers of Tenneco, Inc., Cozad, Nebraska. The notice was published in the **Federal Register** on February 2, 2009 (74 FR 5871).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to the production of shock absorbers.

New information shows that workers leased from Elite Staffing, Inc. were employed on-site at the Cozad, Nebraska location of Tenneco, Inc.

The Department has determined that these workers were sufficiently under the control of Tenneco, Inc. to be considered leased workers.

The intent of the Department's certification is to include all workers of the subject firm adversely affected as a supplier to a trade certified primary firm.

Based on these findings, the Department is amending this certification to include workers leased from Elite Staffing, Inc. working on-site at the Cozad, Nebraska location of the subject firm.

The amended notice applicable to TA–W–64,668 is hereby issued as follows:

All workers of Tenneco, Inc., including on-site leased workers from Elite Staffing, Inc., Cozad, Nebraska, who became totally or partially separated from employment on or after December 12, 2007, through January 15, 2011, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 8th day of December 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–30249 Filed 12–18–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,932]

Keeper Corporation: Hampton Products International Corporation Including On-Site Leased Workers From AAA Staffing; North Windham, CT; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and a Negative Determination Regarding Eligibility to Apply for Alternative Trade Adjustment Assistance on March 13, 2008, applicable to workers of Keeper Corporation, including on-site leased workers from AAA Staffing, North Windham, Connecticut. The notice was published in the **Federal Register** on March 26, 2008 (73 FR 16064). The notice was amended on December 5, 2008 and February 25, 2009 to include employees in support of the subject firm working in Lawrenceville, Georgia, Smyrna, Tennessee, West Grove, Pennsylvania and Bountiful, Utah. The notices were published in the **Federal Register** on December 15, 2008 (73 FR 76058–76059 and March 4, 2009 (74 FR 9432) respectively.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in employment related to the production of cargo control products such as tie downs, towing straps and bungee cords.

New information shows that Hampton Products International Corporation is the parent firm of Keeper Corporation. Workers wages at the subject firm are being reported under the Unemployment Insurance (UI) tax account for Hampton Products International Corporation.

Accordingly, the Department is amending this certification to show workers wages are reported to the Unemployment Insurance (UI) tax account for Hampton Products International Corporation.

The intent of the Department's certification is to include all workers of Keeper Corporation, North Windham, Connecticut who was adversely affected by a shift in production of cargo control products such as tie downs, towing straps and bungee cords to China.

The amended notice applicable to TA–W–63,927 is hereby issued as follows:

All workers of Keeper Corporation, Hampton Products International Corporation, including on-site leased workers of AAA Staffing, North Windham, Connecticut (TA–W–62,932), all workers of Keeper Corporation, Hampton Products International Corporation, Manchester (TA–W–62,932A), including employees in support of Keeper Corporation, Hampton Products International Corporation, North Windham, Connecticut working out of Lawrenceville, Georgia (TA–W–62,932B, Smyrna, Tennessee (TA–W–62,932C), West Grove, Pennsylvania (TA–W–62,932D) and Bountiful, Utah (TA–W–62,932E), who became totally or partially separated from employment on or after February 28, 2007 through March 13, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974 and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 8th day of December 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–30248 Filed 12–18–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–72,273]

Top Eastern Drill Formerly Known as Kennametal, Inc. and Greenfield Industries, Inc. Including On-Site Leased Workers From Mau, Manpower and Kelly Services Including Workers Whose Wages Are Reported to Phillips Staffing, Evans, GA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 6, 2009, applicable to workers of Top Eastern Drill, formerly known as Kennametal, Inc., and Greenfield Industries, Inc., including on-site leased workers from Mau, Manpower and Kelly Services, Evans, Georgia. The notice will be published soon in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to the production of drill bits and other hole making and threading tools.

Information shows that some workers separated from employment at the Evans, Georgia location of the subject firm had their wages reported under a separated unemployment insurance (UI) tax account for Phillips Staffing.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by the shift in production of drill bits and other hole making and threading tools to China and Japan.

The amended notice applicable to TA–W–72,273 is hereby issued as follows:

All workers of Top Eastern Drill, formerly known as Kennametal, Inc. and Greenfield Industries, Inc., including on-site leased workers from MAU, Manpower and Kelly Services, including workers whose (UI) wages are reported to Phillips Staffing, Evans, Georgia, who became totally or partially separated from employment on or after September 1, 2008 through October 6, 2011, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 8th day of December 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–30244 Filed 12–18–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–71,819]

Benco Manufacturing, a Division of Magna International, Including On-Site Leased Workers From Temp Associates and Manpower, Belle Plaine, IA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 20, 2009, applicable to workers of Benco Manufacturing, a division of Magna International, including on-site leased workers from Temp Associates, Belle

Plaine, Iowa. The notice will be published soon in the **Federal Register.**

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of automotive component parts for tubular assembly.

The company reports that on-site leased workers from Manpower were employed on-site at the Belle Plaine, Iowa location of Benco Manufacturing, a division of Magna International. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Manpower working on-site at the Belle Plaine, Iowa location of Benco Manufacturing, a division of Magna International.

The amended notice applicable to TA–W–71,819 is hereby issued as follows:

All workers of Benco Manufacturing, a division of Magna International, including on-site leased workers from Temp Associates and Manpower, Belle Plaine, Iowa, who became totally or partially separated from employment on or after July 20, 2008, through November 20, 2011, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC this 8th day of December 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–30255 Filed 12–18–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–71,343]

Metso Minerals Industries, Inc., Including On-Site Leased Workers From Executive Staffing and Aerotek, Columbia, SC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 13, 2009, applicable to workers of Metso Minerals Industries, Inc., including on-site leased workers from Executive Staffing, Columbia, South Carolina. The notice will be published soon in the **Federal Register**.

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of mining machinery.

The company reports that on-site leased workers from Aerotek were employed on-site at the Columbia, South Carolina location of Metso Minerals Industries, Inc. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Aerotek working on-site at the Columbia, South Carolina location of Metso Minerals Industries, Inc.

The amended notice applicable to TA–W–71,343 is hereby issued as follows:

All workers of Metso Minerals Industries, Inc., including on-site leased workers from Executive Staffing and Aerotek, Columbia, South Carolina, who became totally or partially separated from employment on or after June 22, 2008, through October 13, 2011, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 8th day of December 2009.

Michael W. Jaffe,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–30254 Filed 12–18–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 31, 2009.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 31, 2009.

The petitions filed in this case are available for inspection at the Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 11th day of December 2009.

Elliott Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

APPENDIX

[TAA petitions instituted between 11/16/09 and 11/20/09]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
72845	Hewlett Packard (State)	Boise, ID	11/16/09	11/13/09
72846	Hewlett Packard Company (Wkrs)	Boise, ID	11/16/09	10/29/09
72847	Hanes Brand (Wkrs)	Sanford, NC	11/16/09	11/10/09
72848	Residential Solutions (Comp)	Tyler, TX	11/16/09	11/13/09
72849	Objective Systems Integrators (State)	Roseville, CA	11/16/09	11/13/09
72850	Kasto, Inc. (Comp)	Export, PA	11/16/09	11/13/09
72851	General Motors Corp. (State)	Milford, MI	11/16/09	10/20/09
72852	GM—Spring Hill Manufaturing Operations (Union)	Spring Hill, TN	11/16/09	11/13/09
72853	Stutzman Plating Inc. (Comp)	Los Angeles, CA	11/16/09	11/11/09
72854	CTG—Computer Task Group (Wkrs)	Indianapolis, IN	11/16/09	10/28/09
72855	Thermo Fisher Scientific (Comp)	Dubuque, IA	11/16/09	11/11/09
72856	Deco Products Company, LLC (State)	Decorah, IA	11/16/09	11/13/09
72857	Tasler, Inc. (State)	Webster City, IA	11/16/09	11/13/09
72858	Class Fashion, Inc. (Wkrs)	New York, NY	11/16/09	11/15/09
72859	RJ America Inc (Wkrs)	Brooklyn, NY	11/16/09	11/15/09
72860	Metavation LLC (Union)	Traverse City, MI	11/16/09	11/16/09
72861	Stanley Furniture Company, Inc.—Stanleytown, VA (Comp)	Stanleytown, VA	11/17/09	11/16/09
72862	SKF Aeroengine (Wkrs)	Falconer, NY	11/17/09	11/06/09
72863	Baker Furniture (Wkrs)	Connelly Springs, NC	11/17/09	11/16/09
72864	Cummins Business Services (Comp)	Nashville, TN	11/17/09	11/16/09
72865	Valenite, LLC (Wkrs)	Madison Heights, MI	11/17/09	11/16/09
72866	Nova Controls, Inc. (Wkrs)	Watsonville, CA	11/17/09	11/12/09
72867	Hewlett-Packard, Vancouver Site IT (Wkrs)	Vancouver, WA	11/17/09	11/08/09
72868	Empire Die Casting Company, Inc. (Wkrs)	Macedonia, OH	11/17/09	11/16/09
72869	Dell, Inc. (Wkrs)	Oklahoma City, OK	11/17/09	11/11/09
72870	Boise Cascade, LLC (Union)	Oakdale, LA	11/17/09	11/16/09
72871	Orleans Furniture, Inc. (Comp)	Columbia, MS	11/17/09	11/10/09
72872	Moog, Inc. (State)	Everett, WA	11/17/09	11/16/09
72873	RBS Citizens, N.A. (Comp)	Providence, RI	11/17/09	11/16/09
72874	Cooper Tools—Lexington Operation (Comp)	Lexington, SC	11/18/09	11/16/09
72875	Cooper Tools—Apex Operation (Comp)	Apex, NC	11/18/09	11/16/09
72876	EDS, an HP Company (Wkrs)	Flint, MI	11/18/09	11/12/09
72877	Avaya Incorporated (Comp)	Basking Ridge, NJ	11/18/09	11/12/09
72878	The Premcor Refining Group Inc., A Valero Company (USW).	Delaware City, DE	11/18/09	11/01/09
72879	Universal Warranty Corporation (Wkrs)	Omaha, NE	11/18/09	11/11/09
72880	Intermet—Archer Creek (Comp)	Linchburg, VA	11/18/09	11/04/09
72881	Smart Paper (Union)	Hamilton, OH	11/18/09	11/17/09
72882	Aluminum Alloys (Wrks)	Sinking Spring, PA	11/18/09	10/20/09
72883	General Electric—Grove City (Wkrs)	Grove City, PA	11/18/09	11/12/09
72884	Warner Music Group (Wkrs)	Burbank, CA	11/18/09	11/16/09
72885	Logan Industries, Inc. (Comp)	Spokane, WA	11/18/09	11/17/09
72886	Turner Techtronics, Inc. (State)	Burbank, CA	11/18/09	11/17/09
72887	Hospira (Comp)	Lake Forest, IL	11/18/09	11/16/09
72888	Tektronix, Inc. (Comp)	Beaverton, OR	11/19/09	11/17/09
72889	Nortel (Wkrs)	Richardson, TX	11/19/09	11/11/09
72890	Nortel Networks, LTE Packet Core (Wkrs)	Richardson, TX	11/19/09	11/18/09
72891	Pulva Corporation (Wkrs)	Saxonburg, PA	11/19/09	09/28/09
72892	Bostik Inc. (Comp)	Marshall, MI	11/19/09	11/18/09
72893	Goetz Custom Technologies (Comp)	Bristol, RI	11/19/09	10/23/09
72894	U.S. Axle, Inc. (Comp)	Pottstown, PA	11/19/09	11/12/09
72895	Clark Construction (Comp)	El Dorado, TX	11/19/09	11/17/09
72896	Staffmark (Wkrs)	Buena Park, CA	11/19/09	11/18/09
72897	MedQuist (Wkrs)	Norcross, GA	11/19/09	11/18/09
72898	Modine Manufacturing Company (Comp)	Harrodsburg, KY	11/19/09	11/18/09
72899	Weatherford (Wkrs)	Midland, TX	11/19/09	11/16/09
72900	CEVA Freight, LLC (Wkrs)	Winston-Salem, NC	11/19/09	11/18/09
72901	Sequel Software, Inc. (Comp)	Durango, CO	11/19/09	11/12/09
72902	Haerter Stamping, LLC (Comp)	Kentwood, MI	11/19/09	11/18/09
72903	Ford Motor Company, Wahtoo Hills Stamping (Union)	Walton Hills, OH	11/20/09	11/19/09
72904	Honeywell-Hobbs (2 Locations) (Union)	Spring Valley, IL	11/20/09	11/13/09
72905	Precision Mold & Engineering, Inc. (Comp)	Warren, MI	11/20/09	11/19/09
72906	Sonetics Corporation (Comp)	Tigard, OR	11/20/09	11/12/09
72907	Gallery Leather Company, Inc. (Union)	Trenton, ME	11/20/09	11/11/09
72908	Embarq (Wkrs)	New Bern, NC	11/20/09	11/17/09
72909	The Glass Baron, Inc. (Comp)	Virginia Beach, VA	11/20/09	11/19/09
72910	Carl Zeiss IMT Corporation (Wkrs)	Maple Grove, MN	11/20/09	11/18/09
72911	Sandvik Hard Materials (State)	West Branch, MI	11/20/09	10/26/09
72912	Rexam Closure (Wkrs)	Hamlet, NC	11/20/09	11/10/09
72913	Mcnulty Hicken Smith (MHSI) (State)	Rochester Hills, MI	11/20/09	10/26/09

APPENDIX—Continued

[TAA petitions instituted between 11/16/09 and 11/20/09]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
72914	Cummins Filtration (State)	Cookeville, TN	11/20/09	11/16/09
72915	Lariat Services (Wkrs)	Midland, TX	11/20/09	11/18/09
72916	Dowell Schlumberger (Wkrs)	Sonora, TX	11/20/09	11/19/09

[FR Doc. E9–30245 Filed 12–18–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 31, 2009.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 31, 2009.

The petitions filed in this case are available for inspection at the Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 11th day of December 2009.

Elliott Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

APPENDIX

[TAA petitions instituted between 11/30/09 and 12/4/09]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
72972	Sungard Higher Education (Wkrs)	Malvern, PA	11/30/09	11/25/09
72973	Marvell Semiconductor, Inc. (Wkrs)	Boise, ID	11/30/09	11/25/09
72974	Panduit Corporation (Comp)	Tinley Park, IL	11/30/09	11/23/09
72975	Pexco LLC (formerly Filtrona Extrusion, Inc.) (Union)	Union Gap, WA	11/30/09	11/23/09
72976	Deutsche Bank Services New Jersey, Inc. (Wkrs)	Jersey City, NJ	12/01/09	11/27/09
72977	Hennings Automotive (Wkrs)	New Haven, MO	12/01/09	11/02/09
72978	Caterpillar, Inc.—Mapleton Foundry (Union)	Peoria, IL	12/01/09	11/03/09
72979	TTI Transaction Technologies (Wkrs)	Union, MO	12/01/09	10/26/09
72980	IBM (Wkrs)	Farmers Branch, TX	12/01/09	11/24/09
72981	IVAX Pharmaceuticals NY (Comp)	Congers, NY	12/01/09	11/20/09
72982	Ryder Logistics (Wkrs)	Indianapolis, IN	12/01/09	11/30/09
72983	R&M Manufacturing (Wkrs)	Milton, WI	12/01/09	11/25/09
72984	Delphi Delco Electronics de Mexico (Comp)	Los Indios, TX	12/01/09	11/30/09
72985	Brantly Helicopter (Wkrs)	Vernon, TX	12/01/09	11/30/09
72986	Wardwell Braiding Machine Company (Comp)	Central Falls, RI	12/01/09	11/30/09
72987	Lapp Insulators (Wkrs)	Leroy, NY	12/01/09	11/06/09
72988	Matcor Automotive (Wkrs)	Moberly, MO	12/01/09	11/24/09
72989	Hanesbrands, Inc. for Eden and Related Operations (Comp).	Winston-Salem, NC	12/02/09	11/24/09
72990	Reliant Machine, Inc. (State)	Green Bay, WI	12/02/09	12/01/09
72991	Vascor Ltd. (Comp)	Fremont, CA	12/02/09	12/01/09
72992	Ideal Tool and Plastics (Wkrs)	Meadville, PA	12/02/09	11/24/09
72993	Boeing Aerospace Corporation (State)	Seattle, WA	12/02/09	11/24/09
72994	Nautilus, Inc. (Comp)	Vancouver, WA	12/02/09	11/30/09
72995	Travelport (Comp)	Parsippany, NJ	12/02/09	11/24/09
72996	Sunrise Toole & Die (Wkrs)	Henderson, KY	12/02/09	11/20/09
72997	Sherrill Furniture (Wkrs)	Newton, NC	12/02/09	11/18/09
72998	Bristol-Myers Squibb (Comp)	Evansville, IN	12/02/09	11/20/09
72999	Shain Solution (Union)	Philipsburg, PA	12/02/09	11/25/09
73000	Ayerswre Electronics (Wkrs)	Corinth, MS	12/02/09	12/01/09
73001	NOV Fiber Glass System (Wkrs)	Big Spring, TX	12/02/09	12/01/09
73002	Brose Gainesville, Inc. (Comp)	Gainesville, GA	12/02/09	12/01/09
73003	IBM (Wkrs)	Austin, TX	12/02/09	11/24/09
73004	Bank of America (Wkrs)	Albany, NY	12/03/09	11/30/09
73005	Camcar Aerospace (Comp)	Rockford, IL	12/03/09	12/02/09

APPENDIX—Continued

[TAA petitions instituted between 11/30/09 and 12/4/09]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
73006	Hersey Meters (Wkrs)	Cleveland, NC	12/03/09	11/27/09
73007	Perotsystems (Wkrs)	Phoenix, AZ	12/03/09	12/01/09
73008	Nortel/CDMA MTX Group (Wkrs)	Richardson, TX	12/03/09	11/01/09
73009	Sunoco Eagle Point Refinery (Wkrs)	Westville, NJ	12/04/09	12/01/09
73010	General Motors Powertrain Toledo Transmission Plant (Union).	Toledo, OH	12/04/09	12/03/09
73011	Agfa HealthCare, Inc. (Comp)	Wilmington, MA	12/04/09	09/03/09
73012	Oldcastle Glass Engineered Products (Wkrs)	Bloomsburg, PA	12/04/09	12/01/09
73013	Pentron Clinical Technologies (State)	Wallingford, CT	12/04/09	12/02/09
73014	Schawk Retail Marketing (Comp)	Chicago, IL	12/04/09	12/01/09
73015	Mohawk Industries (Comp)	Landrum, SC	12/04/09	12/03/09
73016	News America Marketing (State)	Wilton, CT	12/04/09	12/02/09
73017	Clark Equipment Company (Union)	Bismarck, ND	12/04/09	12/02/09
73018	Smurfit-Stone Container (Wkrs)	Mansfield, OH	12/04/09	12/02/09
73019	Hunter Technology Corporation (Comp)	Santa Clara, CA	12/04/09	12/02/09
73020	Alliance Plastics East (Wkrs)	Erie, PA	12/04/09	12/02/09
73021	PJ Services (Wkrs)	Eldorado, TX	12/04/09	12/03/09
73022	Autodesk, Inc. (Wkrs)	San Rafael, CA	12/04/09	11/24/09
73023	Eagle Sportswear, Inc. (Comp)	New York, NY	12/04/09	11/05/09
73024	Kent Lincoln Mercury (Wkrs)	Kent, OH	12/04/09	12/03/09
73025	Jonathon Martin, Inc. (State)	Los Angeles, CA	12/04/09	12/02/09
73026	Sheridan Books (Wkrs)	Ann Arbor, MI	12/04/09	11/25/09
73027	Picture Source (State)	Seattle, WA	12/04/09	11/25/09

[FR Doc. E9–30247 Filed 12–18–09; 8:45 am]
BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 31, 2009.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 31, 2009.

The petitions filed in this case are available for inspection at the Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 11th day of December 2009.

Elliott Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

APPENDIX

[TAA petitions instituted between 11/23/09 and 11/27/09]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
72917	Circuit City Distributer PRC 255 (Wkrs)	Bethlehem, PA	11/23/09	11/20/09
72918	Northeast Machine & Tool Company (Wkrs)	Mt. Pleasant, TX	11/23/09	11/20/09
72919	Nelson Frames, Inc. (Comp)	Sophia, NC	11/23/09	11/20/09
72920	Albany International Corporation (Wkrs)	Albany, NY	11/23/09	11/11/09
72921	Kostal of America, Inc. (Comp)	Troy, MI	11/23/09	11/20/09
72922	Boehringer-Ingelheim USA Corporation (Wkrs)	Ridgefield, CT	11/23/09	11/19/09
72923	Carhartt, Inc. (Comp)	Glasgow, KY	11/23/09	11/20/09
72923A	Carhartt, Inc. (Comp)	Glasgow, KY	11/23/09	11/20/09
72924	Heritage Aviation, LTD (Comp)	Grand Prairie, TX	11/23/09	11/20/09
72925	Honeywell (Comp)	Folsom, CA	11/23/09	11/20/09
72926	Freescale Semiconductor (State)	Austin, TX	11/24/09	11/19/09
72927	IC Corporation (Union)	Conway, AR	11/24/09	11/12/09
72928	Smith Logging, Inc. (Comp)	Kalispell, MT	11/24/09	11/20/09
72929	Republic Engineered Products, Inc. (Union)	Lorain, OH	11/24/09	11/20/09

APPENDIX—Continued

[TAA petitions instituted between 11/23/09 and 11/27/09]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
72930	Kik Custom Products (Wkrs)	City of Industry, CA	11/24/09	11/23/09
72931	Mazer Creative Services (Wkrs)	Maitland, FL	11/24/09	11/09/09
72932	Swimwear Anywhere, Inc. (Comp)	Farmingdale, NY	11/24/09	11/23/09
72933	Electronic Data Systems (State)	Pontiac, MI	11/24/09	10/30/09
72934	Inteva/Duluth Services (Union)	Orion, MI	11/24/09	11/23/09
72935	T-Shirt International, Inc. (Comp)	Culloden, WV	11/24/09	11/18/09
72936	Current Medicine Group, LLC (Wkrs)	Philadelphia, PA	11/24/09	11/19/09
72937	Severstal North America (Union)	Dearborn, MI	11/24/09	10/30/09
72938	Schneider Electric (Comp)	Seneca, SC	11/24/09	11/23/09
72939	Span America Inc. (Wkrs)	Worcester, PA	11/24/09	11/23/09
72940	EDS, an HP Company (State)	Alpharetta, GA	11/24/09	11/18/09
72941	Boeing Aerospace Corporation (State)	Seattle, WA	11/25/09	11/24/09
72942	V & W Packaging (Comp)	Hickory, NC	11/25/09	11/24/09
72943	General Motors Corporation—Hamtramck Assembly (Union).	Detroit, MI	11/25/09	11/23/09
72944	Xpedx International Paper (Wkrs)	Camp Hill, PA	11/25/09	11/24/09
72945	Blumenthal Printworks (Wkrs)	Murfreesboro, TN	11/25/09	11/23/09
72946	Kraft Foods Global (Wkrs)	Wilkes-Barre, PA	11/25/09	11/24/09
72947	Supreme Foam, Inc. (Comp)	Archdale, NC	11/25/09	11/17/09
72948	Cooper Tire & Rubber Company (Comp)	Cedar Rapids, IA	11/25/09	11/24/09
72949	Western Digital Corporation (Wkrs)	Lake Forest, CA	11/25/09	11/17/09
72950	Pittsburgh Coatings (Wkrs)	Ambridge, PA	11/25/09	11/23/09
72951	Alstorm Transportation (Wkrs)	Williston, VT	11/25/09	11/24/09
72952	Maersk (State)	Madison, NJ	11/25/09	11/24/09
72953	Matthews International Corporation (Wkrs)	Kingwood, WV	11/25/09	11/23/09
72954	RBP Chemical Technology, Inc. (Comp)	Milwaukee, WI	11/25/09	11/24/09
72955	Bridgestone Americas (Union)	Akron, OH	11/25/09	11/24/09
72956	Jasper Chair (Wkrs)	Jasper, IN	11/25/09	11/19/09
72957	Hoffco/Comet Industries (Comp)	Richmond, IN	11/25/09	11/20/09
72958	YRC Worldwide, Inc. (State)	Burnsville, MN	11/27/09	11/25/09
72959	Ansonia Copper & Brass, Inc. (State)	Waterbury, CT	11/27/09	11/25/09
72960	Chrysler Financial (State)	Farmington Hills, MI	11/27/09	11/02/09
72961	Inteva Products, LLC (State)	Troy, MI	11/27/09	11/03/09
72962	American Axle & Manufacturing (State)	Oxford, MI	11/27/09	11/03/09
72963	General Electric—Carolina Plant (Comp)	Goldsboro, NC	11/27/09	11/16/09
72964	Jabil Circuit, Inc. (State)	Auburn Hills, MI	11/27/09	11/03/09
72965	Hickory Dyeing & Winding Co., Inc. (Comp)	Hickory, NC	11/27/09	11/24/09
72966	Damascus Steel Casting Company (Wkrs)	New Brighton, PA	11/27/09	11/25/09
72967	General Electric Transportation (Wkrs)	Grove City, PA	11/27/09	11/24/09
72968	WC Wood Corporation, Inc. (Wkrs)	Ottawa, OH	11/27/09	11/24/09
72969	Agfa Healthcare (Wkrs)	Greenville, SC	11/27/09	11/25/09
72970	Hopper Development, Inc. (Comp)	Logansport, IN	11/27/09	11/25/09
72971	ASC Machine Tools, Inc. (Union)	Spokane Valley, WA	11/27/09	11/24/09

[FR Doc. E9–30246 Filed 12–18–09; 8:45 am]
BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,784]

Oval International, Hoquiam, WA; Notice of Negative Determination on Reconsideration

On September 29, 2009, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice was published in the **Federal Register** on October 20, 2009 (74 FR 53763).

The initial investigation resulted in a negative determination based on the finding that imports of pulp bale strapping machines and spare parts did not contribute importantly to worker separations at the subject firm and no shift of production to a foreign source occurred. The ''contributed importantly'' test is generally demonstrated through a survey of the workers' firm's declining domestic customers. The survey of the major declining customers revealed no imports of pulp bale strapping machines and spare parts 2007, 2008 and January through March 2009. The subject firm reported declining imports of pulp bale strapping machines and spare parts during the relevant period.

In the request for reconsideration, the petitioner stated that workers of the subject firm were previously certified eligible for Trade Adjustment Assistance (TAA) based on a shift in production to Canada and other offshore locations. The petitioner further stated that since the production shift, workers of the subject firm ''mainly dealt with sales, service, production and distribution of spare parts.'' The petitioner also alleged that the company continued shifting production of spare parts abroad and that imports of spare parts increased.

When assessing eligibility for TAA, the Department exclusively considers shift in production and import impact during the relevant period (from one year prior to the date of the petition). The Department of Labor contacted a company official to verify whether Oval International shifted production of spare

parts from the subject facility abroad during the relevant period. The company official stated that the subject firm did not shift production of spare parts abroad in 2008 or 2009.

Furthermore, the investigation revealed that neither the subject firm nor its customers increased imports of pulp bale strapping machines and spare parts during the relevant period.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Oval International, Hoquiam, Washington.

Signed at Washington, DC, this 10th day of December 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–30250 Filed 12–18–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–70,829]

Schnadig Corporation, Belmont, MS; Notice of Negative Determination Regarding Application for Reconsideration

By application dated November 11, 2009, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on October 21, 2009 and will soon be published in the **Federal Register.**

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition filed on behalf of workers at Schnadig Corporation, Belmont, Mississippi was based on the finding that imports of services like or directly competitive with services provided by workers of the subject firm did not contribute to worker separations at the subject firm during the relevant period. The investigation revealed that workers of the subject firm were engaged in distribution and warehousing services of furniture. The subject firm did not import nor acquire services from a foreign country and also did not shift the provision of these services to a foreign country.

In the request for reconsideration, the petitioner stated that workers of the subject firm were previously certified eligible for TAA based on increased imports of upholstered residential furniture.

The workers of Schnadig Corporation, Belmont Mississippi were previously certified eligible for TAA under petition number TA–W–60,5765, which expired on January 5, 2009. The investigation revealed that at that time workers of the subject firm were engaged in production of upholstered residential furniture and the employment declines at the subject facility were attributed to the subject firm's increase in imports of furniture.

When assessing eligibility for TAA, the Department exclusively considers worker activities during the relevant period (from one year prior to the date of the petition). Therefore, events occurring in 2007 are outside of the relevant period and are not considered in this investigation.

The investigation revealed that workers of the subject firm were engaged in distribution and warehousing services during the relevant period. These functions, as described above, were not imported, or shifted abroad nor were the service acquired from a foreign country during the relevant period. Therefore, criteria II.A. and II.B. of Section 222(a) of the Act were not met. Furthermore, with the respect to Section 222(c) of the Act, the investigation revealed that criterion 2 was not met because the workers did not supply a service that was used by a firm with TAA-certified workers in the production of an article or supply of a service that was a basis for TAA certification.

The petitioner also stated that Schnadig Corporation, Belmont, Mississippi was purchased by another company, which shifted all operations from the subject firm to a facility in Greensboro, North Carolina.

The information regarding a shift in services from the subject facility to another location in the United States was revealed during the initial investigation. However, the criteria regarding the shift in services specifically states that the services have to be shifted to a foreign country. Therefore, a mere shift in services to another domestic facility does not preclude workers' eligibility for TAA.

The petitioner did not supply facts not previously considered; nor provide additional documentation indicating that there was either (1) a mistake in the determination of facts not previously considered or (2) a misinterpretation of facts or of the law justifying reconsideration of the initial determination.

After careful review of the request for reconsideration, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 10th day of December, 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–30253 Filed 12–18–09; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–70,454]

Graphite Engineering and Sales Company, Greenville, MI; Notice of Negative Determination Regarding Application for Reconsideration

By application dated November 13, 2009, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on September 24, 2009 and was published in the **Federal Register** on November 17, 2009 (74 FR 59255).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination, based on the finding that imports of graphite and carbon parts did not contribute to worker separations at the subject facility and there was no shift in production from the subject firm to foreign country during the period under investigation. The ''contributed importantly'' test is generally demonstrated through a survey of the workers' firm's declining customers. The survey revealed no imports of graphite and carbon parts by declining customers during the relevant period. The subject firm did not import graphite and carbon parts nor shift production to a foreign country during the relevant period.

The petitioner states that workers of the subject firm indirectly supplied parts that were integral in petroleum production. The petitioner further states that demand for drilling equipment has diminished because of the new fuel efficiency standards and seems to allege that the workers of the subject firm should be eligible for TAA as secondary impacted workers under Section 222(c).

For the Department to issue a secondary worker certification under Section 222(c), to workers of a secondary upstream supplier, the subject firm must produce for a certified customer a component part of the article that was the basis for the customers' certification.

In this case, however, the subject firm does not act as an upstream supplier, because graphite and carbon parts do not form a component part of petroleum products. Thus the subject firm workers are not eligible under secondary impact as suppliers to companies producing petroleum fuel.

The petitioner did not supply facts not previously considered; nor provide additional documentation indicating that there was either (1) a mistake in the determination of facts not previously considered or (2) a misinterpretation of facts or of the law justifying reconsideration of the initial determination.

After careful review of the request for reconsideration, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 10th day of December, 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–30252 Filed 12–18–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–70,078]

Eaton Aviation Corporation, Aviation and Aerospace Components Division, Aurora, CO; Notice of Negative Determination Regarding Application for Reconsideration

By application dated September 21, 2009, a company official requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on August 28, 2009 and will soon be published in the **Federal Register**.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition filed on behalf of workers at Eaton Aviation Corporation, Aviation and Aerospace Components Division, Aurora, Colorado was based on the finding that imports of services like or directly competitive with services provided by workers of the subject firm did not contribute to worker separations at the subject firm during the relevant period. The investigation revealed that workers of the subject firm were engaged in facilities maintenance related to the closing of the location, disposing of equipment and materials through sale or discard, and archiving paper manufacturing records. The subject firm did not import, nor acquire services from a foreign country and also did not shift the provision of these services to a foreign country.

In the request for reconsideration, the petitioner stated that workers of the subject firm were previously certified eligible for TAA based on a shift in production of aviation and aerospace parts and components to Mexico. The petitioner further stated that even though production of aviation and aerospace parts and components did not occur at the subject facility in the relevant period, workers of the subject firm were retained by the subject firm to close the plant ''through no fault or decision of their own.'' The petitioner appears to allege that because the subject firm asked the petitioning workers to remain employed at the subject facility beyond the expiration date of the previous certification, the workers of the subject firm should be granted another TAA certification.

The workers of Eaton Aviation Corporation, Aviation and Aerospace Components Division, Aurora, Colorado were previously certified eligible for TAA under petition numbers TA–W–60,965, which expired on May 1, 2009. The investigation revealed that at that time workers of the subject firm were engaged in production of aviation and aerospace parts and components and the employment declines at the subject facility were attributed to a shift in production of aviation and aerospace parts and components to Mexico. The current investigation revealed that production of aviation and aerospace parts and components at the subject firm ceased in June, 2007.

When assessing eligibility for TAA, the Department exclusively considers worker activities during the relevant period (from one year prior to the date of the petition). Therefore, events occurring in 2007 are outside of the relevant period and are not considered in this investigation.

The investigation revealed that workers of the subject firm were engaged in facilities maintenance, disposing of equipment and materials through sale or discard, and archiving paper manufacturing records during the relevant period. No production took place at the subject facility in 2008 and 2009. In order for workers of the subject firm to be eligible for TAA under Section 222(a), there has to be evidence of increased imports of services or a shift abroad in provision of services supplied by workers of the subject firm. The functions performed by workers of Eaton Aviation Corporation, Aviation and Aerospace Components Division, Aurora, Colorado, as described above, were not imported, or shifted abroad nor were the services acquired from a foreign country during the relevant period. Therefore, criteria II.A. and II.B.

of Section 222(a) of the Act were not met.

Furthermore, because there were no imports of services supplied by workers of the subject firm and the subject firm did not shift facilities maintenance, disposing of equipment and materials through sale or discard, and archiving paper manufacturing records abroad, criterion II.C is not met. Imports or shift/acquisition in services provided by workers of the subject firm did not contribute importantly to the workers' separation.

Furthermore, with the respect to Section 222(c) of the Act, the investigation revealed that criterion 2 was not met because the workers did not supply a service that was used by a firm with TAA-certified workers in the production of an article or supply of a service that was a basis for TAA certification.

The petitioner did not supply facts not previously considered; nor provide additional documentation indicating that there was either (1) a mistake in the determination of facts not previously considered or (2) a misinterpretation of facts or of the law justifying reconsideration of the initial determination.

After careful review of the request for reconsideration, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 10th day of December, 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–30251 Filed 12–18–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of petitions for modification of existing mandatory safety standards.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before January 20, 2010.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: Standards-Petitions@dol.gov.*
2. *Facsimile:* 1–202–693–9441.
3. *Regular Mail:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209, *Attention:* Patricia W. Silvey, Director, Office of Standards, Regulations and Variances.
4. *Hand-Delivery or Courier:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to check in at the receptionist desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (E-mail), or 202–693–9441 (Telefax). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or (2) that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2009–020–C.

Petitioner: Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241.

Mine: Blacksville No. 2 Mine, MSHA I.D. No. 46–01968, located in Monongalia County, West Virginia.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance with respect to vertical Coal Bed Methane (CBM) degasification wells with horizontal laterals into the underground coal seam. The petitioner proposes to plug vertically drilled CBM degasification wells in order to mine through them. The petitioner states that: (1) Prior to the anticipated mine through, the borehole will be filled with cementatious grout, polyurethane grout, silica gel, flexible gel, or another material approved by the District Manager; (2) a packer with a one-way check valve, will be installed at a location in the borehole to ensure that an appropriate amount of the borehole is filled with the plugging material, and any water present in the borehole will be tested for chlorides prior to plugging; (3) a directional deviation survey completed during the drilling of the borehole will be used to determine the location of the borehole within the coal seam; (4) where suitable plugging procedures have not yet been developed or are impractical, water infusion and ventilation of vertical CBM wells with horizontal laterals may be used in lieu of plugging; (5) when mining through a CBM degasification well with horizontal laterals, the operator will notify the District Manager or designee prior to mining within 300 feet of the well, and when a specific plan is developed for mining through each well; (6) when using the continuous mining method, drivage sights will be installed at the last open crosscut near the place to be mined to ensure intersection of the well. The drivage sights will not be more than 250 feet from the well. When using the longwall mining method, drivage sights will be installed on 10-foot centers, 50 feet in advance of the initial anticipated intersection of the well, in both the headgate and tailgate entry; (7) firefighting equipment, including fire extinguishers, rock dust, and enough

fire hose to reach the well location on the working face will be available near the working place; (8) sufficient supplies of roof support and ventilation materials will be available near the working place; (9) the quantity of air required by the approved ventilation system and methane and dust control plan, will be used to ventilate the working face, or the longwall face during the mining through operation; (10) equipment will be checked for permissibility and serviced on the shift, and the methane monitor on the longwall or continuous mining machine will be calibrated on the shift, prior to mining through the well; (11) tests for methane will be made with a hand-held methane detector when mining is in progress, at least every 10 minutes from the time mining with the continuous mining machine is within 30 feet of the well until the well is intersected and immediately prior to mining through or the resumption of mining after a well is intersected. When mining with longwall equipment, the tests for methane will be made at least every 10 minutes when the longwall face is within 10 feet of the well; (12) when using continuous mining methods, the working place will be free from accumulations of coal dust and coal spillages and rock dust will be placed on the roof and rib, within 20 feet of the face when mining through the well; (13) all equipment will be de-energized when the well is intersected and the place will be thoroughly examined and determined safe before mining resumes. Any well casing will be removed and no open flame will be permitted in the area until adequate ventilation has been established around the wellbore; (14) after the well has been intersected and the working place determined safe, mining will continue inby the well at a sufficient distance to permit adequate ventilation around the area of the wellbore; (15) only persons engaged in the operation will be permitted in the area of the mining through operation, inby the last open crosscut, such as company personnel, representatives of miners, MSHA personnel and personnel from the appropriate State agency. The mining through operation will be under the direct supervision of a certified official and only the certified official will issue instructions concerning the mining through operation; and (16) for the safety of the miners, MSHA personnel may interrupt or halt the mining through operation when necessary. Persons may review a complete description of the petitioner's alternative method and procedures at the MSHA address listed in this notice. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection to all miners at the Blacksville No. 2 Mine as would be provided by the existing standard.

Docket Number: M–2009–022–C.

Petitioner: RFI Energy, Inc., 4740 Corridor Place, Suite D, Beltsville, Maryland.

Mine: RFI Strip & Tipple, MSHA I.D. No. 36–08763, located in Clarion County, Pennsylvania.

Regulation Affected: 30 CFR 77.1301(f) (Explosives and blasting).

Modification Request: The petitioner requests a modification of the existing standard to permit its explosives storage magazines to be maintained off-site in their current location, closer than 25 feet to each other, provided that the total contents of both magazines do not exceed the maximum weight for explosives set forth in the US Bureau of Alcohol, Tobacco & Firearms (BATF) Table of Distances. The petitioner states that: (1) The current configuration was previously approved by the BATF and is consistent with the terms of the permit issued to RFI Energy for these magazines by the State of Pennsylvania; (2) to reconfigure the magazines and move one magazine outside the existing enclosed structure would impose prohibitive expense without any commensurate safety improvements, and would place RFI Energy in violation of its existing BATF and Pennsylvania permits for explosives storage; (3) it would be unduly burdensome to relocate the magazines because of the requirements RFI Energy must meet to conform to BATF, and Pennsylvania Department of Homeland Security, as well as MSHA's acceptance of this storage practice during previous inspections conducted by the Agency on behalf of BATF; and (4) in light of the small amounts of explosives regularly stored in the magazines, the lack of the magazines' proximity to roadways, housing, or human traffic, full compliance with a Federal agency (BATF) that has primary jurisdiction over explosives storage requirements, and the rules promulgated and permits granted to RFI Energy by the Pennsylvania Department of Homeland Security for explosives storage, RFI Energy should not be required to expend prodigious amounts of money, time, or physical effort and to violate its existing explosives permits in order to comply with MSHA's explosives storage regulations which, according to the most recent MSHA semi-annual regulatory agenda are slated for revision to harmonize more appropriately with those regulations of the BATF. The petitioner further states that the alternative method provides equivalent or superior safety to the application of the standard, is already in compliance with BATF and the Pennsylvania Department of Homeland Security, and MSHA has acknowledged in the pending citation that it is unlikely that any injuries would occur given the current scenario.

Dated: December 15, 2009.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. E9–30157 Filed 12–18–09; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of petitions for modification of existing mandatory safety standards.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before January 20, 2010.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: Standards-Petitions@dol.gov.*

2. *Facsimile:* 1–202–693–9441.

3. *Regular Mail:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances.

4. *Hand-Delivery or Courier:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express

on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to check in at the receptionist desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (E-mail), or 202–693–9441 (Telefax). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or (2) that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2009–023–C.

Petitioner: Blue Mountain Energy, Inc., 3607 County Road #65, Rangely, Colorado 81648.

Mine: Deserado Mine, MSHA I. D No. 05–03505, located in Rio Blanco County, Colorado.

Regulation Affected: 30 CFR 75.380(d)(4)(iv) (Escapeways; bituminous and lignite mines).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance by allowing a reduction in the required width of at least six feet of the working section's alternate escapeway so that the alternate escapeway can be moved to the conveyor belt haulage entry. The reduction in the required width of at least six feet will be between the mobile equipment and the conveyor belt structure for a distance of up to 500 feet. The Deserado Mine has mobile power center equipment and related cables suspended from a monorail in the haulage entry offset from and parallel to the conveyor belt. The reduced width in the proposed alternate escapeway will be between the belt structure and the hanging cables and power center equipment. The petitioner states that: (1) The power center and related cables and hydraulic hoses will be classified as ''mobile equipment'' thereby allowing a reduction in the alternate escapeway between the belt structure and mobile equipment; and (2) the conditions in the proposed location for the alternate escapeway in the working section are similar to those in the alternate escapeway already approved and in use in the belt entry near the headgate of the longwall section. The petitioner further states that the following precautions will be taken: (a) Reflective signs indicating ''Limited Clearance'' will be posted and maintained at both ends of the entire affected area where the clearance is less than 6 feet; (b) all employees required to work on the development section inby the affected area will be instructed on the impact of limited clearance and the importance of maintaining the escapeway in safe and travelable condition; (c) the walkway will be kept free of all hazards and obstructions, and all extraneous material not essential to the mining process, such as spare parts, loose rock and debris, will be removed to ensure a safe travelable walkway; (d) roof bolts installed as primary roof supports will not be used in mounting the monorail system, and supplemental roof bolts will be utilized for mounting the monorail system; and (e) roof bolts used to support the monorail will be of suitable length or type to assure the monorail is anchored in competent roof or designed for the roof structure and will be of suitable strength to support the monorail and the suspended equipment. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by the existing standard.

Docket Number: M–2009–024–C.

Petitioner: Lone Mountain Processing, Inc., Drawer C, St. Charles, Virginia 24282.

Mine: Clover Fork No. 1 Mine, MSHA I.D. No. 15–18647, Huff Creek No. 1 Mine, MSHA I.D. No. 15–17234, and Darby Fork No. 1 Mine, MSHA I.D. No. 15–02263, all located in Harlan County, Kentucky.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance) and 30 CFR 18.35 (Portable trailing cables and cords).

Modification Request: The petitioner requests a modification of the existing standard to permit: (1) The maximum length of the 480-volt trailing cables supplying power to the permissible pumps to be 5000 feet, and no greater than 30 horsepower; (2) the minimum kilovolt-ampere (KVA) rating of the power center supplying power to the pumps to be no less than 500 KVA; (3) the trailing cables for the 480-volt permissible pumps that are longer than 550 feet to not be smaller than No. 6 American Wire Gauge (AWG); (4) all circuit breakers used to protect No. 6 AWG trailing cables exceeding 550 feet in length to have instantaneous trip units calibrated to trip at 60 amperes. The trip setting of the circuit breakers will be sealed or locked so that the setting cannot be changed, and will have permanent, legible labels. Each label will be maintained legible and will identify the circuit breaker as being suitable for protecting No. 6 AWG cables; (5) replacement instantaneous trip units used to protect No. 6 AWG trailing cables to be calibrated to trip at 60 amperes, and the setting to be sealed or locked; (6) all circuit breakers used to protect No. 2 AWG trailing cables exceeding 700 feet in length to have instantaneous trip units calibrated to trip at 150 amperes. The trip setting of the circuit breakers will be sealed or locked so that the setting cannot be changed, and will have permanent, legible labels. Each label will be maintained legible and will identify the circuit breaker as being suitable for protecting No. 2 AWG cables; (7) replacement instantaneous trip units used to protect No. 2 AWG trailing cables to be calibrated to trip at 150 amperes and the setting to be sealed or locked; (8) all components that provide short-circuit protection to have a sufficient interruption rating in accordance with the maximum calculated fault currents available; a short-circuit current setting that will not exceed the setting specified in the approval documentation or 70 percent of the minimum available current, whichever is less; (9) permanent warning labels to be installed and maintained on the cover(s) of the power center or distribution box identifying the location of each sealed short-circuit protective device. These labels will warn miners not to change or alter these sealed short-circuit breaker settings. The petitioner states that: (1) Within 60 days after the Proposed Decision and Order becomes final, proposed revisions for its approved 30 CFR part 48 training plan, at any of the listed mines, will be submitted to the Coal Mine Safety and Health District Manager. The training plan will include: (a) Training in the mining methods and operating procedures for protecting the trailing

cables against damage; (b) training in proper procedures for examining the trailing cables to ensure they are in safe condition; (c) training in the hazards of setting short-circuit interrupting device(s) too high to adequately protect the trailing cables; and (d) training in how to verify that the circuit interrupting device(s) protecting the trailing cable(s) are properly set and maintained. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by the standard.

Docket Number: M–2009–025–C.

Petitioner: Canyon Fuel Company, LLC, 1099 18th Street, Suite 2150, Denver, Colorado 80202.

Mine: Sufco Mine, MSHA I.D. No. 42–00089, located in Sevier County, Utah.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of battery-powered non-permissible surveying equipment in or inby the last open crosscut, as it pertains to the use of non-permissible surveying equipment, including, but not limited to, low-voltage or battery-powered non-permissible survey equipment, portable battery-operated mine transits, total station surveying equipment, electronic distance meters, and other equipment that may have to be used including tools such as data loggers and laptop computers. The petitioner proposes the following: (a) Non-permissible electronic surveying equipment may be used when equivalent permissible electronic surveying equipment is not available. Such non-permissible surveying equipment includes portable battery-powered total station surveying equipment, mine transits, distance meters and data loggers; (b) all non-permissible electronic surveying equipment to be used in or inby the last open crosscut will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These checks will include: (i) Checking the instrument for any physical damage and the integrity of the case; (ii) removing the battery and inspecting it for corrosion; (iii) inspecting the contact points to ensure a secure connection to the battery; (iv) reinserting the battery and powering up and shutting down to ensure proper connections; and (v) checking the battery compartment cover to ensure that it is securely fastened; (c) record the results of the inspection and retain for one year, and make available to MSHA upon request; (d) a qualified person will continuously monitor for methane immediately before and during the use of non-permissible surveying equipment in or inby the last open crosscut; (e) non-permissible surveying equipment will not be used if methane is detected in concentrations at or above the levels specified in 30 CFR 75.323, for the area being surveyed. When methane is detected at such level while the non-permissible surveying equipment is being used, the equipment will be de-energized immediately and the non-permissible electronic equipment withdrawn outby the last open crosscut; (f) all hand-held methane detectors will be MSHA approved and maintained in permissible and proper operating condition; (g) batteries contained in the surveying equipment must be changed-out or charged in intake air outby the last open crosscut; (h) qualified personnel engaged in the use of surveying equipment will be properly trained to recognize the hazards associated with the use of non-permissible surveying equipment in areas where methane could be present; (i) the non-permissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition; and (j) submit proposed revisions for the part 48 training plan to the District Manager, which will include specified initial and refresher training regarding the terms and conditions stated in the Proposed Decision and Order. The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by the standard.

Docket Number: M–2009–026–C.

Petitioner: Canyon Fuel Company, LLC, 1099 18th Street, Suite 2150, Denver, Colorado 80202.

Mine: Sufco Mine, MSHA I.D. No. 42–00089, located in Sevier County, Utah.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered non-permissible surveying equipment in return airways, as it pertains to the use of non-permissible surveying equipment, including, but not limited to, low-voltage or battery-powered non-permissible survey equipment, portable battery-operated mine transits, total station surveying equipment, electronic distance meters, and other equipment that may have to be used including tools such as data loggers and laptop computers. The petitioner proposes the following: (a) Non-permissible electronic surveying equipment may be used when equivalent permissible electronic surveying equipment is not available. Such non-permissible surveying equipment includes portable battery-powered total station surveying equipment, mine transits, distance meters and data loggers; (b) all non-permissible electronic surveying equipment to be used in return air will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These checks will include: (i) Checking the instrument for any physical damage and the integrity of the case; (ii) removing the battery and inspecting it for corrosion; (iii) inspecting the contact points to ensure a secure connection to the battery; (iv) reinserting the battery and powering up and shutting down to ensure proper connections; and (v) checking the battery compartment cover to ensure that it is securely fastened; (c) record the results of the inspection and retain for one year, and make available to MSHA upon request; (d) a qualified person will continuously monitor for methane immediately before and during the use of non-permissible surveying equipment in or inby the last open crosscut; (e) non-permissible surveying equipment will not be used if methane is detected in concentrations at or above the levels specified in 30 CFR 75.323, for the area being surveyed. When methane is detected at such level while the non-permissible surveying equipment is being used, the equipment will be de-energized immediately and the non-permissible electronic equipment withdrawn outby the last open crosscut; (f) all hand-held methane detectors will be MSHA approved and maintained in permissible and proper operating condition; (g) batteries contained in the surveying equipment must be changed-out or charged in intake air out of the return; (h) qualified personnel engaged in the use of surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of non-permissible surveying equipment in areas where methane could be present; (i) the non-permissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition; and (j) submit proposed revisions for the part 48 training plan to

the District Manager, which will include specified initial and refresher training regarding the terms and conditions stated in the Proposed Decision and Order. The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by the standard.

Docket Number: M–2009–027–C.

Petitioner: Canyon Fuel Company, LLC, 1099 18th Street, Suite 2150, Denver, Colorado 80202.

Mine: Sufco Mine, MSHA I.D. No. 42–00089, located in Sevier County, Utah.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered non-permissible surveying equipment within 150 feet of pillar workings or longwall faces, as it pertains to use of non-permissible surveying equipment, including, but not limited to, low-voltage or battery-powered non-permissible survey equipment, portable battery-operated mine transits, total station surveying equipment, electronic distance meters, and other equipment that may have to be used including tools such as data loggers and laptop computers. The petitioner proposes the following: (a) Non-permissible electronic surveying equipment may be used when equivalent permissible electronic surveying equipment is not available. Such non-permissible surveying equipment includes portable battery-powered total station surveying equipment, mine transits, distance meters and data loggers; (b) all non-permissible electronic surveying equipment to be used within 150 feet of pillar workings or longwall faces will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These checks will include: (i) Checking the instrument for any physical damage and the integrity of the case; (ii) removing the battery and inspecting it for corrosion; (iii) inspecting the contact points to ensure a secure connection to the battery; (iv) reinserting the battery and powering up and shutting down to ensure proper connections; and (v) checking the battery compartment cover to ensure that it is securely fastened; (c) record the results of the inspection and retain for one year, and make available to MSHA upon request; (d) a qualified person will continuously monitor for methane immediately before and during the use of non-permissible surveying equipment within 150 feet of pillar workings or longwall faces; (e) non-permissible surveying equipment will not be used if methane is detected in concentrations at or above the levels specified in 30 CFR 75.323, for the area being surveyed. When methane is detected at such level while the non-permissible surveying equipment is being used, the equipment will be de-energized immediately and the non-permissible electronic equipment withdrawn further than 150 feet from pillar workings or longwall faces; (f) all hand-held methane detectors will be MSHA approved and maintained in permissible and proper operating condition; (g) batteries contained in the surveying equipment must be changed-out or charged in intake air outby the area within 150 feet of pillar workings or longwall faces; (h) qualified personnel engaged in the use of surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of non-permissible surveying equipment in areas where methane could be present; (i) the non-permissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition; and (j) submit proposed revisions for the part 48 training plan to the District Manager, which will include specified initial and refresher training regarding the terms and conditions stated in the Proposed Decision and Order. The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by the standard.

Docket Number: M–2009–028–C.

Petitioner: Mountain Coal Company, LLC, 1099 18th Street, Suite 2150, Denver, Colorado 80802.

Mine: West Elk Mine, MSHA I.D. No. 05–03672, located in Gunnison County, Colorado.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of battery-powered non-permissible surveying equipment in or inby the last open crosscut, as it pertains to the use of non-permissible surveying equipment, including, but not limited to, low-voltage or battery-powered non-permissible survey equipment, portable battery-operated mine transits, total station surveying equipment, electronic distance meters, and other equipment that may have to be used including tools such as data loggers and laptop computers. The petitioner proposes the following: (a) Non-permissible electronic surveying equipment may be used when equivalent permissible electronic surveying equipment is not available. Such non-permissible surveying equipment includes portable battery-powered total station surveying equipment, mine transits, distance meters and data loggers; (b) all non-permissible electronic surveying equipment to be used in or inby the last open crosscut will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These checks will include: (i) Checking the instrument for any physical damage and the integrity of the case; (ii) removing the battery and inspecting it for corrosion; (iii) inspecting the contact points to ensure a secure connection to the battery; (iv) reinserting the battery and powering up and shutting down to ensure proper connections; and (v) checking the battery compartment cover to ensure that it is securely fastened; (c) record the results of the inspection and retain for one year, and make available to MSHA upon request; (d) a qualified person will continuously monitor for methane immediately before and during the use of non-permissible surveying equipment in or inby the last open crosscut; (e) non-permissible surveying equipment will not be used if methane is detected in concentrations at or above the levels specified in 30 CFR 75.323, for the area being surveyed. When methane is detected at such level while the non-permissible surveying equipment is being used, the equipment will be de-energized immediately and the non-permissible electronic equipment withdrawn outby the last open crosscut; (f) all hand-held methane detectors will be MSHA approved and maintained in permissible and proper operating condition; (g) batteries contained in the surveying equipment must be changed-out or charged in intake air outby the last open crosscut; (h) qualified personnel engaged in the use of surveying equipment will be properly trained to recognize the hazards associated with the use of non-permissible surveying equipment in areas where methane could be present; (i) the non-permissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition; and (j) submit proposed revisions for the part

48 training plan to the District Manager, which will include specified initial and refresher training regarding the terms and conditions stated in the Proposed Decision and Order. The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by the standard.

Docket Number: M–2009–029–C.

Petitioner: Mountain Coal Company, LLC, 1099 18th Street, Suite 2150, Denver, Colorado 80202.

Mine: West Elk Mine, MSHA I.D. No. 05–03672, located in Gunnison County, Colorado.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered non-permissible surveying equipment in return airways, as it pertains to the use of non-permissible surveying equipment, including, but not limited to, low-voltage or battery-powered non-permissible survey equipment, portable battery-operated mine transits, total station surveying equipment, electronic distance meters, and other equipment that may have to be used including tools such as data loggers and laptop computers. The petitioner proposes the following: (a) Non-permissible electronic surveying equipment may be used when equivalent permissible electronic surveying equipment is not available. Such non-permissible surveying equipment includes portable battery-powered total station surveying equipment, mine transits, distance meters and data loggers; (b) all non-permissible electronic surveying equipment to be used in return air will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These checks will include: (i) Checking the instrument for any physical damage and the integrity of the case; (ii) removing the battery and inspecting it for corrosion; (iii) inspecting the contact points to ensure a secure connection to the battery; (iv) reinserting the battery and powering up and shutting down to ensure proper connections; and (v) checking the battery compartment cover to ensure that it is securely fastened; (c) record the results of the inspection and retain for one year, and make available to MSHA upon request; (d) a qualified person will continuously monitor for methane immediately before and during the use of non-permissible surveying equipment in or inby the last open crosscut; (e) non-permissible surveying equipment will not be used if methane is detected in concentrations at or above the levels specified in 30 CFR 75.323, for the area being surveyed. When methane is detected at such level while the non-permissible surveying equipment is being used, the equipment will be de-energized immediately and the non-permissible electronic equipment withdrawn outby the last open crosscut; (f) all hand-held methane detectors will be MSHA approved and maintained in permissible and proper operating condition; (g) batteries contained in the surveying equipment must be changed-out or charged in intake air out of the return; (h) qualified personnel engaged in the use of surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of non-permissible surveying equipment in areas where methane could be present; (i) the non-permissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition; and (j) submit proposed revisions for the part 48 training plan to the District Manager, which will include specified initial and refresher training regarding the terms and conditions stated in the Proposed Decision and Order. The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by the standard.

Docket Number: M–2009–030–C.

Petitioner: Mountain Coal Company, LLC, 1099 18th Street, Suite 2150, Denver, Colorado 80202.

Mine: West Elk Mine, MSHA I.D. No. 05–03672, located in Gunnison County, Colorado.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered non-permissible surveying equipment within 150 feet of pillar workings or longwall faces, as it pertains to use of non-permissible surveying equipment, including, but not limited to, low-voltage or battery-powered non-permissible survey equipment, portable battery-operated mine transits, total station surveying equipment, electronic distance meters, and other equipment that may have to be used including tools such as data loggers and laptop computers. The petitioner proposes the following: (a) Non-permissible electronic surveying equipment may be used when equivalent permissible electronic surveying equipment is not available. Such non-permissible surveying equipment includes portable battery-powered total station surveying equipment, mine transits, distance meters and data loggers; (b) all non-permissible electronic surveying equipment to be used within 150 feet of pillar workings or longwall faces will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These checks will include: (i) Checking the instrument for any physical damage and the integrity of the case; (ii) removing the battery and inspecting it for corrosion; (iii) inspecting the contact points to ensure a secure connection to the battery; (iv) reinserting the battery and powering up and shutting down to ensure proper connections; and (v) checking the battery compartment cover to ensure that it is securely fastened; (c) record the results of the inspection and retain for one year, and make available to MSHA upon request; (d) a qualified person will continuously monitor for methane immediately before and during the use of non-permissible surveying equipment within 150 feet of pillar workings or longwall faces; (e) non-permissible surveying equipment will not be used if methane is detected in concentrations at or above the levels specified in 30 CFR 75.323, for the area being surveyed. When methane is detected at such level while the non-permissible surveying equipment is being used, the equipment will be de-energized immediately and the non-permissible electronic equipment withdrawn further than 150 feet from pillar workings or longwall faces; (f) all hand-held methane detectors will be MSHA approved and maintained in permissible and proper operating condition; (g) batteries contained in the surveying equipment must be changed-out or charged in intake air outby the area within 150 feet of pillar workings or longwall faces; (h) qualified personnel engaged in the use of surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of non-permissible surveying equipment in areas where methane could be present; (i) the non-permissible surveying equipment will not be put into service until MSHA has initially inspected the

equipment and determined that it is in compliance with all the terms and conditions in this petition; and (j) submit proposed revisions for the part 48 training plan to the District Manager, which will include specified initial and refresher training regarding the terms and conditions stated in the Proposed Decision and Order. The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by the standard.

Docket Number: M–2009–031–C.

Petitioner: Canyon Fuel Company, LLC, 1099 18th Street, Suite 2150, Denver, Colorado 80202.

Mine: Dugout Canyon Mine, MSHA I.D. No. 42–01890, located in Carbon County, Utah.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of battery-powered non-permissible surveying equipment in or inby the last open crosscut, as it pertains to the use of non-permissible surveying equipment, including, but not limited to, low-voltage or battery- powered non-permissible survey equipment, portable battery-operated mine transits, total station surveying equipment, electronic distance meters, and other equipment that may have to be used including tools such as date loggers and laptop computers. The petitioner proposes the following: (a) Non-permissible electronic surveying equipment may be used when equivalent permissible electronic surveying equipment is not available. Such non-permissible surveying equipment includes portable battery-powered total station surveying equipment, mine transits, distance meters and data loggers; (b) all non-permissible electronic surveying equipment to be used in or inby the last open crosscut will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These checks will include: (i) Checking the instrument for any physical damage and the integrity of the case; (ii) removing the battery and inspecting it for corrosion; (iii) inspecting the contact points to ensure a secure connection to the battery; (iv) reinserting the battery and powering up and shutting down to ensure proper connections; and (v) checking the battery compartment cover to ensure that it is securely fastened; (c) record the results of the inspection and retain for one year, and make available to MSHA upon request; (d) a qualified person will continuously monitor for methane immediately before and during the use of non-permissible surveying equipment in or inby the last open crosscut; (e) non-permissible surveying equipment will not be used if methane is detected in concentrations at or above the levels specified in 30 CFR 75.323, for the area being surveyed. When methane is detected at such level while the non-permissible surveying equipment is being used, the equipment will be de-energized immediately and the non-permissible electronic equipment withdrawn outby the last open crosscut; (f) all hand-held methane detectors will be MSHA approved and maintained in permissible and proper operating condition; (g) batteries contained in the surveying equipment must be changed-out or charged in intake air outby the last open crosscut; (h) qualified personnel engaged in the use of surveying equipment will be properly trained to recognize the hazards associated with the use of non-permissible surveying equipment in areas where methane could be present; (i) the non-permissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition; and (j) submit proposed revisions for the part 48 training plan to the District Manager, which will include specified initial and refresher training regarding the terms and conditions stated in the Proposed Decision and Order. The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by the standard.

Docket Number: M–2009–032–C.

Petitioner: Canyon Fuel Company, LLC, 1099 18th Street, Suite 2150, Denver, Colorado 80202.

Mine: Dugout Canyon Mine, MSHA I.D. No. 42–01890, located in Carbon County, Utah.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered non-permissible surveying equipment in return airways, as it pertains to the use of non-permissible surveying equipment, including, but not limited to, low-voltage or battery-powered non-permissible survey equipment, portable battery-operated mine transits, total station surveying equipment, electronic distance meters, and other equipment that may have to be used including tools such as data loggers and laptop computers. The petitioner proposes the following: (a) Non-permissible electronic surveying equipment may be used when equivalent permissible electronic surveying equipment is not available. Such non-permissible surveying equipment includes portable battery-powered total station surveying equipment, mine transits, distance meters and data loggers; (b) all non-permissible electronic surveying equipment to be used in return air will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These checks will include: (i) Checking the instrument for any physical damage and the integrity of the case; (ii) removing the battery and inspecting it for corrosion; (iii) inspecting the contact points to ensure a secure connection to the battery; (iv) reinserting the battery and powering up and shutting down to ensure proper connections; and (v) checking the battery compartment cover to ensure that it is securely fastened; (c) record the results of the inspection and retain for one year, and make available to MSHA upon request; (d) a qualified person will continuously monitor for methane immediately before and during the use of non-permissible surveying equipment in or inby the last open crosscut; (e) non-permissible surveying equipment will not be used if methane is detected in concentrations at or above the levels specified in 30 CFR 75.323, for the area being surveyed. When methane is detected at such level while the non-permissible surveying equipment is being used, the equipment will be de-energized immediately and the non-permissible electronic equipment withdrawn outby the last open crosscut; (f) all hand-held methane detectors will be MSHA approved and maintained in permissible and proper operating condition; (g) batteries contained in the surveying equipment must be changed-out or charged in intake air out of the return; (h) qualified personnel engaged in the use of surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of non-permissible surveying equipment in areas where methane could be present; (i) the non-permissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with

all the terms and conditions in this petition; and (j) submit proposed revisions for the part 48 training plan to the District Manager, which will include specified initial and refresher training regarding the terms and conditions stated in the Proposed Decision and Order. The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by the standard.

Docket Number: M–2009–033–C.

Petitioner: Canyon Fuel Company, LLC, 1099 18th Street, Suite 2150, Denver, Colorado 80202.

Mine: Dugout Canyon Mine, MSHA I.D. No. 42–01890, located in Carbon County, Utah.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered non-permissible surveying equipment within 150 feet of pillar workings or longwall faces, as it pertains to use of non-permissible surveying equipment, including, but not limited to, low-voltage or battery-powered non-permissible survey equipment, portable battery-operated mine transits, total station surveying equipment, electronic distance meters, and other equipment that may have to be used including tools such as data loggers and laptop computers. The petitioner proposes the following: (a) Non-permissible electronic surveying equipment may be used when equivalent permissible electronic surveying equipment is not available. Such non-permissible surveying equipment includes portable battery-powered total station surveying equipment, mine transits, distance meters and data loggers; (b) all non-permissible electronic surveying equipment to be used within 150 feet of pillar workings or longwall faces will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These checks will include: (i) Checking the instrument for any physical damage and the integrity of the case; (ii) removing the battery and inspecting it for corrosion; (iii) inspecting the contact points to ensure a secure connection to the battery; (iv) reinserting the battery and powering up and shutting down to ensure proper connections; and (v) checking the battery compartment cover to ensure that it is securely fastened; (c) record the results of the inspection and retain for one year, and make available to MSHA upon request; (d) a qualified person will continuously monitor for methane immediately before and during the use of non-permissible surveying equipment within 150 feet of pillar workings or longwall faces; (e) non-permissible surveying equipment will not be used if methane is detected in concentrations at or above the levels specified in 30 CFR 75.323, for the area being surveyed. When methane is detected at such level while the non-permissible surveying equipment is being used, the equipment will be de-energized immediately and the non-permissible electronic equipment withdrawn further than 150 feet from pillar workings or longwall faces; (f) all hand-held methane detectors will be MSHA approved and maintained in permissible and proper operating condition; (g) batteries contained in the surveying equipment must be changed-out or charged in intake air outby the area within 150 feet of pillar workings or longwall faces; (h) qualified personnel engaged in the use of surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of non-permissible surveying equipment in areas where methane could be present; (i) the non-permissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition; and (j) submit proposed revisions for the part 48 training plan to the District Manager, which will include specified initial and refresher training regarding the terms and conditions stated in the Proposed Decision and Order. The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by the standard.

Docket Number: M–2009–034–C.

Petitioner: Canyon Fuel Company, LLC, 1099 18th Street, Suite 2150, Denver, Colorado 80202.

Mine: Skyline #3 Mine, MSHA I.D. No. 42–01566, located in Carbon County, Utah.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of battery-powered non-permissible surveying equipment in or inby the last open crosscut, as it pertains to the use of non-permissible surveying equipment including, but not limited to, low-voltage or battery-powered non-permissible survey equipment, portable battery-operated mine transits, total station surveying equipment, electronic distance meters, and other equipment that may have to be used including tools such as data loggers and laptop computers. The petitioner proposes the following: (a) Non-permissible electronic surveying equipment may be used when equivalent permissible electronic surveying equipment is not available. Such non-permissible surveying equipment includes portable battery-powered total station surveying equipment, mine transits, distance meters and data loggers; (b) all non-permissible electronic surveying equipment to be used in or inby the last open crosscut will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These checks will include: (i) Checking the instrument for any physical damage and the integrity of the case; (ii) removing the battery and inspecting it for corrosion; (iii) inspecting the contact points to ensure a secure connection to the battery; (iv) reinserting the battery and powering up and shutting down to ensure proper connections; and (v) checking the battery compartment cover to ensure that it is securely fastened; (c) record the results of the inspection and retain for one year, and make available to MSHA upon request; (d) a qualified person will continuously monitor for methane immediately before and during the use of non-permissible surveying equipment in or inby the last open crosscut; (e) non-permissible surveying equipment will not be used if methane is detected in concentrations at or above the levels specified in 30 CFR 75.323, for the area being surveyed. When methane is detected at such level while the non-permissible surveying equipment is being used, the equipment will be de-energized immediately and the non-permissible electronic equipment withdrawn outby the last open crosscut; (f) all hand-held methane detectors will be MSHA approved and maintained in permissible and proper operating condition; (g) batteries contained in the surveying equipment must be changed-out or charged in intake air outby the last open crosscut; (h) qualified personnel engaged in the use of surveying equipment will be properly trained to recognize the hazards associated with the use of non-permissible surveying equipment in areas where methane could be present; (i) the non-permissible surveying equipment will not be put into service until MSHA has initially inspected the

equipment and determined that it is in compliance with all the terms and conditions in this petition; and (j) submit proposed revisions for the part 48 training plan to the District Manager, which will include specified initial and refresher training regarding the terms and conditions stated in the Proposed Decision and Order. The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by the standard.

Docket Number: M–2009–035–C.

Petitioner: Canyon Fuel Company, LLC, 1099 18th Street, Suite 2150, Denver, Colorado 80202.

Mine: Skyline #3 Mine, MSHA I.D. No. 42–01566, located in Carbon County, Utah.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered non-permissible surveying equipment in return airways, as it pertains to the use of non-permissible surveying equipment, including, but not limited to, low-voltage or battery-powered non-permissible survey equipment, portable battery-operated mine transits, total station surveying equipment, electronic distance meters, and other equipment that may have to be used including tools such as data loggers and laptop computers. Petitioner proposes the following: (a) Non-permissible electronic surveying equipment may be used when equivalent permissible electronic surveying equipment is not available. Such non-permissible surveying equipment includes portable battery-powered total station surveying equipment, mine transits, distance meters and data loggers; (b) all non-permissible electronic surveying equipment to be used in return air will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These checks will include: (i) Checking the instrument for any physical damage and the integrity of the case; (ii) removing the battery and inspecting it for corrosion; (iii) inspecting the contact points to ensure a secure connection to the battery; (iv) reinserting the battery and powering up and shutting down to ensure proper connections; and (v) checking the battery compartment cover to ensure that it is securely fastened; (c) record the results of the inspection and retain for one year, and make available to MSHA upon request; (d) a qualified person will continuously monitor for methane immediately before and during the use of non-permissible surveying equipment in or inby the last open crosscut; (e) non-permissible surveying equipment will not be used if methane is detected in concentrations at or above the levels specified in 30 CFR 75.323, for the area being surveyed. When methane is detected at such level while the non-permissible surveying equipment is being used, the equipment will be de-energized immediately and the non-permissible electronic equipment withdrawn outby the last open crosscut; (f) all hand-held methane detectors will be MSHA approved and maintained in permissible and proper operating condition; (g) batteries contained in the surveying equipment must be changed-out or charged in intake air out of the return; (h) qualified personnel engaged in the use of surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of non-permissible surveying equipment in areas where methane could be present; (i) the non-permissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition; and (j) submit proposed revisions for the part 48 training plan to the District Manager, which will include specified initial and refresher training regarding the terms and conditions stated in the Proposed Decision and Order. The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by the standard.

Docket Number: M–2009–036–C.

Petitioner: Canyon Fuel Company, LLC, 1099 18th Street, Suite 2150, Denver, Colorado 80202.

Mine: Skyline #3 Mine, MSHA I.D. No. 42–01566, located in Carbon County, Utah.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered non-permissible surveying equipment within 150 feet of pillar workings or longwall faces, as it pertains to use of non-permissible surveying equipment, including, but not limited to, low-voltage or battery-powered non-permissible survey equipment, portable battery-operated mine transits, total station surveying equipment, electronic distance meters, and other equipment that may have to be used including tools such as data loggers and laptop computers. The petitioner proposes the following: (a) Non-permissible electronic surveying equipment may be used when equivalent permissible electronic surveying equipment is not available. Such non-permissible surveying equipment includes portable battery-powered total station surveying equipment, mine transits, distance meters and data loggers; (b) all non-permissible electronic surveying equipment to be used within 150 feet of pillar workings or longwall faces will be examined prior to use to ensure the equipment is being maintained in a safe operating condition. These checks will include: (i) Checking the instrument for any physical damage and the integrity of the case; (ii) removing the battery and inspecting it for corrosion; (iii) inspecting the contact points to ensure a secure connection to the battery; (iv) reinserting the battery and powering up and shutting down to ensure proper connections; and (v) checking the battery compartment cover to ensure that it is securely fastened; (c) record the results of the inspection and retain for one year, and make available to MSHA upon request; (d) a qualified person will continuously monitor for methane immediately before and during the use of non-permissible surveying equipment within 150 feet of pillar workings or longwall faces; (e) non-permissible surveying equipment will not be used if methane is detected in concentrations at or above the levels specified in 30 CFR 75.323, for the area being surveyed. When methane is detected at such level while the non-permissible surveying equipment is being used, the equipment will be de-energized immediately and the non-permissible electronic equipment withdrawn further than 150 feet from pillar workings or longwall faces; (f) all hand-held methane detectors will be MSHA approved and maintained in permissible and proper operating condition; (g) batteries contained in the surveying equipment must be changed-out or charged in intake air outby the area within 150 feet of pillar workings or longwall faces; (h) qualified personnel engaged in the use of surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of non-permissible surveying equipment in

areas where methane could be present; (i) the non-permissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition; and (j) submit proposed revisions for the part 48 training plan to the District Manager, which will include specified initial and refresher training regarding the terms and conditions stated in the Proposed Decision and Order. The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by the standard.

Dated: December 15, 2009.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. E9–30158 Filed 12–18–09; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of petitions for modification of existing mandatory safety standards.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before January 20, 2010.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: Standards-Petitions@dol.gov*.

2. *Facsimile:* 1–202–693–9441.

3. *Regular Mail:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209, *Attention:* Patricia W. Silvey, Director, Office of Standards, Regulations and Variances.

4. *Hand-Delivery or Courier:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to check in at the receptionist desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (E-mail), or 202–693–9441 (Telefax). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or (2) that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2009–042–C.

Petitioner: Bledsoe Coal Corporation, Route 2008, Box 351 A, Big Laurel, Kentucky 40808.

Mine: Abner Branch Mine, MSHA I. D No. 15–19132 Leslie County, Kentucky.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance).

Modification Request: The petitioner requests a modification of the existing standard to permit the maximum length of trailing cables to be increased for supplying power to permissible pumps in the mine. The petitioner states that: (1) This petition will apply only to trailing cables supplying three-phase, 480-volt power for permissible pumps; (2) the maximum length of the 480-volt power for permissible pump will be 4000 feet: (3) the 480-volt power to permissible pump trailing cables will not be smaller than #6 American Wire Gauge (AWG); (4) all circuit breakers used to protect trailing cables exceeding the pump approval length or Table 9 of Part 18 will have an instantaneous trip unit calibrated to trip at 75 percent of phase to phase short circuit current. The trip setting of these circuit breakers will be sealed or locked, the circuit breakers will have permanent, legible labels, each label will identify the circuit breaker as being suitable for protecting the trailing cables, and the labels will be maintained legible. In instances where a 75 percent instantaneous set point will not allow a pump to start due to motor inrush, a thermal magnetic breaker will be furnished. The thermal rating of the circuit breaker will be no greater than 75 percent of the available short circuit current and the instantaneous setting will be adjusted 1 setting above the motor inrush trip point. This setting will be sealed or locked; (5) replacement instantaneous trip units used to protect pump trailing cables exceeding the length of item #4 will be calibrated to trip at 75 percent of the available phase to phase short circuit current and this setting will be sealed or locked; (6) permanent warning labels will be installed and maintained on the cover(s) of the power center to identify the location of each sealed or locked short-circuit protection device. The labels will warn miners not to change or alter the short circuit settings; (7) the mines current pump circuits that have greater lengths than approved or in Table 9 are attached to the petition. All future pump installation with excessive cable lengths will have a short circuit survey conducted and item 1–6 will be implemented. A copy of each pumps short circuit survey will be available at the mine site for inspection; (8) the alternative method will not be implemented until miners who have been designated to examine the integrity of seals or locks, have received the elements of training to verify the short-circuit settings and the proper procedures for examining trailing cables for defects and damage. The petitioner further states that: (1) Within 60 days after the Proposed Decision and Order becomes final, proposed revisions for approved 30 CFR part 48 training plans at any of the listed mines will be submitted to the Coal Mine Safety and Health District Manager. The training plan will include: (a) Training in the mining methods and operating

procedures for protecting the trailing cables against damage; (b) training in proper procedures for examining the trailing cables to ensure they are in safe operating condition; (c) training in hazards of setting the instantaneous circuit breakers too high to adequately protect the trailing cables; (d) training in how to verify that the circuit interrupting device(s) protecting the trailing cable(s) are properly set and maintained; and (e) the procedures of 30 CFR 48.3 for approval of proposed revisions to already approved training plans will apply. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners at the Bledsoe Coal Company provided by the existing standard.

Docket Number: M–2009–043–C.

Petitioner: Nelson Brothers, LLC, 901 Chase Tower, 707 Virginia Street, East, P.O. Box 913, Charleston, West Virginia 25323.

Mine: Independent Coal Company, Edwight Surface Mine, MSHA I.D. No. 46–08977, located in Raleigh County, West Virginia; Alex Energy, Inc., No. 1 Surface Mine, MSHA I.D. No. 46–06870, located in Nicholas County, West Virginia; Elk Run Coal, Republic Energy Mine, MSHA I.D. No. 46–09054, located in Fayette County, West Virginia; and Elk Run Coal Company, Black Castle Mining Company Mine, MSHA I.D. No. 46–07938 and Independent Coal Company, Twilight Mtr Surface Mine, MSHA I.D. No. 46–08645, located in Boone County, West Virginia.

Regulation Affected: 30 CFR 77.1302(k) (Vehicles used to transport explosives).

Modification Request: The petitioner requests a modification of the existing standard to permit repair and maintenance to be performed on its explosives trucks within the protection of non-permanent shelters that it constructs for such purposes in lieu of purging and steam-cleaning each truck's tank and taking it to a garage every time such is in need of repair or maintenance. The petitioner states that: (1) The structures are comprised of a roof constructed over a concrete pad with two sides closed off from the wind, rain, and snow; (2) construction materials include sheet metal, plywood, or two box trailers parked alongside the pad; (3) the purpose and intent of the existing standard would not be frustrated by allowing the petitioner to perform routine repair and maintenance work on its explosives trucks under the cover of these non-permanent shelters; (4) these shelters do not fit the commonly understood definition of ''repair garage or shop,'' and do not present the same concerns, for example, while performing work on explosives trucks in a ''repair garage or shop'' may expose a number of people to the risk of harm, the petitioner's arrangement involves one or two mechanics in a remote location; (5) affording the mechanics the cover of the non-permanent shelters puts them at no greater risk of injury than if such mechanics were working out in the open. The cover of these non-permanent shelters provide an alternative to working out in the open and protection from extreme weather, and provide a flat, dry surface for employees to work and allows lifting equipment to be used during vehicle repair and maintenance work; (6) workers performing routine repairs and maintenance are provided a safer place at which to work, in contrast to performing the work in the open and on the ground, for example, the non-permanent shelters facilitate protection against back injuries as well as slips and falls; (7) all high explosives and detonators are removed from vehicles prior to entering the non-permanent structures; (8) no hot work or open flames will be permitted within 50 feet of a loaded vehicle; (9) a hot work permit will be required and the vehicle will be emptied and the bed or tank washed in conformity with the existing standard when it is necessary to weld or cut; and (10) application of the existing standard would result in a diminution of safety to the workers because they will be exposed to varying and frequently harsh weather when conducting repairs, and will be at an increased risk of injury from heavy lifting and/or slipping and falling. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by the existing standard.

Docket Number: M–2009–044–C.

Petitioner: Jim Walter Resources, Inc., P.O. Box 133, Brookwood, Alabama 35444.

Mine: Mine No. 4, MSHA I.D. No. 01–01247 and Mine No. 7, MSHA I.D. No. 01–01401, located in Tuscaloosa County, Alabama.

Regulation Affected: 30 CFR 75.507 (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of one or more three-phase 2,400 volt or 4,160 volt alternating current submersible pumps installed in return and bleeder entries in the No. 4 Mine and in the No. 7 Mine. The petitioner states that: (1) The three-phase 2,200-volt or 4,160-volt alternating current electric power circuit for each pump will be designed and installed to: (a) Contain either a direct or derived neutral, which will be grounded through a suitable resistor at the source transformer or power center; (b) contain a grounding resistor that limits the ground-fault current to not more than 6.5 amperes. (2) The following protections for each pump power circuit will be provided by suitable circuit interrupting device of adequate interrupting capacity with devices to provide protection against undervoltage, grounded phase, short-circuit, and overload as follows: (a) The undervoltage protection device will operate on a loss of voltage to prevent automatic re-starting of the equipment; (b) the grounded phase protection device will be set not to exceed fifty percent (50%) of the current rating of the neutral grounding resistor; (c) the short circuit protection device will not be set to exceed the required short circuit protection for the power cable or seventy-five percent (75%) of the minimum available phase-to-phase short circuit current, whichever is less; (d) each power circuit will contain a disconnecting device located on the surface and installed in conjunction with the circuit breaker(s) to provide visual evidence that the power is disconnected; (e) each disconnecting device will include a means to visually determine the relevant pump power circuit is disconnected and be provided with a means to lock, tag-out, and ground the system; (f) each disconnecting device will be designed to prevent entry unless the disconnect handle is in the ''off'' position and the circuit is grounded; and (g) each disconnecting device will be clearly identified and provided with a warning sign stating, ''Danger. Do not enter unless the circuit is opened, locked, tagged-out, and grounded;'' (3) Each three-phase alternating current system will be provided with a low resistance grounding medium for the grounding of the lightning/surge arrestors for the high-voltage pump power circuit that is separated from the neutral grounding medium by a distance of not less than twenty-five (25) feet; (4) The electric control circuit(s) for each pump will meet the following requirements: (a) the control circuit will be equipped with a probe circuit that determines a high and low water level; (b) when the water level is reached, the pump will cease operation and will not start in either the manual or automatic mode; (c) when the water level is reached, the pump will be capable of operation; (d) the high and

low water levels will be determined by a differential pressure switch located at the surface; (e) the grounded-phase protective circuit for each pump will be able to be tested by injecting a test current through the grounded-phase current transformer; (f) a remote control and monitoring system can be used with a pump system for condition monitoring and for remote startup and shutdown control of the pump. The remote control and monitoring system will not allow remote reset of the pump power system when any fault condition (*e.g.,* grounded phase, short circuit, or overload) exists on the system; (g) splices and connections made in submersible pump cables will be made in a workmanlike manner and will meet the requirements of 30 CFR 75.604; (h) the specifications for each pump installation are generally described in an attachment labeled ''Exhibit A'' and incorporated herein by reference. The proposed pump equipment or its equivalent will be used to implement the schematics; (5) Each surface pump control and power circuit will be examined as required by 30 CFR 77.502; (6) The power cable to each submersible pump motor must be suitable for this application and have a current carrying capacity not less than one-hundred twenty-five percent (125%) of the full load motor current of the submersible pump motor, and have an outer jacket suitable for a wet location. The power cable must be supported at the entrance to the borehole and throughout its length by securing tit with clamps, spaced approximately twenty-five (25) feet apart, and affixed to the discharge pipe casing; (7) Each pump installation must comply with all other applicable requirements of 30 CFR; and (8) within sixty (60) days after the petition is granted, proposed revisions for approved 30 CFR, Part 48 training plan will be submitted to the District Manager. These revisions will specify task training for all qualified mine electricians who perform electric work and monthly examinations as required by 30 CFR 77.502, and refresher training regarding the alternative method outlined in this petition. The procedures of 30 CFR 48.3 for approval of proposed revisions to already approved training plans will apply. The petitioner asserts that the proposed alternative method would at all times guarantee at least the same measure of safety as the existing standard.

Docket Number: M–2009–045–C.

Petitioner: Newtown Energy, Inc., P.O. Box 189, Comfort, West Virginia 25049.

Mine: Coalburg No. 1 Mine, MSHA I.D. No. 46–08993, Coalburg No. 3 Mine, MSHA I.D. No. 46–09259, Eagle No. 2 Mine, MSHA I.D. No. 46–09310, and Peerless No. 1 Mine, MSHA I.D. No. 46–09258, located in Boone County, West Virginia; and Coalburg No. 2 Mine, MSHA I.D. No. 46–09231; Eagle Mine, MSHA I.D. No. 46–08759, located in Kanawha County, West Virginia.

Regulation Affected: 30 CFR 75.1101–1(b) (Deluge-type water spray systems).

Modification Request: The petitioner requests a modification of the existing standard to permit in lieu of blow-off dust covers for nozzles on deluge-type water spray systems installed at belt-conveyor drives the following term and conditions will be used: (1) A person trained in the testing procedures specific to the deluge-type water spray fire suppression systems utilized at each belt drive will once every 7 days: (a) Conduct a visual examination of each deluge-type water spray fire suppression system; (b) conduct a functional test of the deluge-type water spray fire suppression systems by actuating the system and observing its performance; and (c) record the results of the examination and functional test in a book maintained on the surface for that purpose. The record will be made available to the authorized representative of the Secretary and retained at the mine for one year; (2) Any malfunction or clogged nozzle detected as a result of the weekly examination or functional test will be corrected immediately; and (3) The procedure used to perform the functional test will be posted at or near each belt drive which utilizes a deluge-type water spray fire suppression system. The petitioner asserts that the proposed alternative method will at all times provide the same measure of protection to the miners as afforded under the existing standard.

Docket Number: M–2009–046–C.

Petitioner: FKZ Coal, Inc., P.O. Box 62, Locust Gap, Pennsylvania 17840.

Mine: No. 1 Slope Mine, MSHA I.D. No. 36–08637, located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 75.1400 (Hoisting equipment; general).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of the slope conveyance (gunboat) in transporting persons without installation of safety catches or other no less effective devices but instead using an increased rope strength/safety factor and secondary safety rope connection in place of such devices. The petitioner states that: (1) The haulage slope of the anthracite mine is of a relatively high angle and frequently changing pitches, typical of those in the anthracite region; (2) a functional safety catch capable of working in slopes with knuckles and curves is not commercially available. A make shift device would be activated on or by knuckles or curves when no emergency exists. The activation of a safety catch can or will damage the haulage system and subject persons being transported to hazards from dislodged timbering, roof material or guide rails and to being battered about within the conveyance; and (3) a safer alternative is to provide secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main termination, and using a hoisting rope with a factor of safety greater than that recommended in the American Standards Specifications for the Use of Wire Rope in Mines or at least three times greater than the strength required under 30 CFR 75.1431(a). The petitioner asserts that the proposed alternative method will in no way provide less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M–2009–047–C.

Petitioner: Nufac Mining Company, Inc., P.O. Box 1085, Beckley, West Virginia 25801.

Mine: Buckey Mine, MSHA I.D. No. 46–08769 located in McDowell County, West Virginia.

Regulation Affected: 30 CFR 75.1101–1(b) (Type and quality of firefighting equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit weekly inspection and functional testing of its complete deluge-type water spray system and removal of blow-off dust cover from the nozzles. The petitioner states that the results of the examination and functional test and any malfunction or clogged nozzle detected, will be recorded in a book and maintained on the surface for that purpose. The petitioner states that the record will be retained at the mine for one year. The petitioner further states that: (1) Blow-off dust covers are currently provided for each nozzle; (2) in view of frequent inspections and functional testing of the system, the dust covers are not necessary because nozzles can be maintained in an unclogged condition through weekly use; and (3) it is burdensome to recap the large number of covers weekly after each inspection and functional test. The petitioner asserts that the alternative method will at all times guarantee no less than the same measure of protection afforded the miners employed at Buckey Mine by the existing standard.

Docket Number: M–2009–048–C.

Petitioner: Pay Car Mining, Inc., P.O. Box 1085, Beckley, West Virginia 25801.

Mine: No. 58 Mine, MSHA I.D. No. 46–08884, located in McDowell County, West Virginia.

Regulation Affected: 30 CFR 75.1101–1(b) (Type and quality of firefighting equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit weekly inspection and functional testing of its complete deluge-type water spray system and removal of blow-off dust cover from the nozzles. The petitioner states that the results of the examination and functional test and any malfunction or clogged nozzle detected, will be recorded in a book and maintained on the surface for that purpose. The petitioner states that the record will be retained at the mine for one year. The petitioner further states that: (1) Blow-off dust covers are currently provided for each nozzle; (2) in view of frequent inspections and functional testing of the system, the dust covers are not necessary because nozzles can be maintained in an unclogged condition through weekly use; and (3) it is burdensome to recap the large number of covers weekly after each inspection and functional test. The petitioner asserts that the alternative method will at all times guarantee no less than the same measure of protection afforded the miners employed at the No. 58 Mine by the existing standard.

Dated: December 15, 2009.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. E9–30159 Filed 12–18–09; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Prohibited Transaction Exemptions and Grant of Individual Exemptions Involving: 2009–33, Cotter Merchandise Storage Company Defined Benefit Pension Plan (the Plan), D–11423; and 2009–34, Unaka Company Incorporated Employees Profit Sharing Plan (the Plan), D–11445

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code).

A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

Exemption

The restrictions of sections 406(a), 406(b) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the proposed sale by the Plan to the Cotter Merchandise Storage Company (Cotter or the Applicant), the Plan sponsor and a party in interest with respect to the Plan, of certain promissory notes (the Notes) which are currently held by the Plan; and (2) the assignment, by the Plan to Cotter, of a civil judgment (the Judgment) against the Plan's former trustee, Robert Geib (Mr. Geib).

This exemption is subject to the following conditions:

(a) The terms and conditions of the proposed sale transaction are at least as favorable to the Plan as those that the Plan could obtain in an arm's length transaction with an unrelated party;

(b) As consideration for the Notes, the Plan receives either (1) the greater of $372,197 or (2) the fair market of the Notes (based upon the value of the Plan's proportionate share of Mr. Geib's ownership interest in Cotter common stock), as determined by a qualified, independent appraiser on the date of the sale transaction;

(c) The proposed sale is a one-time transaction for cash;

(d) The Plan pays no fees, commissions, costs or other expenses in connection with the proposed sale;

(e) Cotter pays the Plan all future recoveries resulting from the Judgment; and

(f) An independent fiduciary (1) determines that the sale is an appropriate transaction for the Plan and is in the best interests of the Plan and its participants and beneficiaries; (2) monitors the sale on behalf of the Plan; and (3) ensures that the Plan receives all future recoveries resulting from the Judgment.

Written Comments

In the notice of proposed exemption (the Notice), the Department invited all interested persons to submit written comments and requests for a hearing within 35 days from the date of publication of the Notice in the **Federal Register.** All comments and requests for a hearing were due by October 30, 2009.

During the comment period, the Department received no requests for a hearing. The Department did, however, receive a comment letter from the Applicant, dated October 6, 2009, concerning Conditions (e) and (f)(3) of the Notice. Condition (e) requires that Cotter pay the Plan all future recoveries resulting from the Judgment. Condition (f)(3) requires the independent fiduciary to ensure that the Plan receives all future recoveries from the Judgment. The Applicant explains that once it obtains the Notes from the Plan, it will seize the underlying common stock collateralizing the Notes that is currently owned by Mr. Geib. The Applicant represents that the seized Cotter stock will be retired as Treasury stock. As a result, the retirement of the seized Cotter stock will not give rise to any cash recoveries.

The Applicant believes that the aforementioned conditions of the Notice should be amended to clarify that it will apply only to future cash recoveries that may arise from the Judgment. Therefore, the Applicant has revised Conditions (e) and (f)(3) of the final exemption to read as follows:

(e) Cotter pays the Plan future cash recoveries, if any, resulting from the Judgment; and * * *

(f)(3) [The independent fiduciary] ensures that the Plan receives all future cash recoveries, if any, resulting from the Judgment.

The Department does not concur with the Applicant's comment. Therefore, it has not revised Conditions (e) and (f)(3) of the operative language. Although the Department is aware of Mr. Geib's financial circumstances, it wishes to emphasize that to the extent Cotter recovers any consideration (either in cash or in kind) resulting from the Judgment, that such consideration should be paid to the Plan.

After giving full consideration to the entire record, the Department has decided to grant the exemption. The complete application file is made available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on September 25, 2009 at 74 FR 49025.

FOR FURTHER INFORMATION CONTACT: Mr. Anh-Viet Ly of the Department at (202) 693–8648. (This is not a toll-free number.)

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code,[1] by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale by the Plan (the Sale) to Unaka Company Incorporated (Unaka), a party in interest with respect to the Plan, of two promissory notes (the Notes) that are secured by deeds of trust on certain parcels of real property.

This exemption is subject to the following conditions:

(a) The Sale is a one-time transaction for cash;

(b) As consideration, the Plan receives the greater of the current outstanding balance of the Notes, plus all accrued but unpaid interest to the date of the Sale (Sale Date), or the fair market value of the Notes as determined by qualified, independent appraisers in updated appraisals on the Sale Date.

(c) The Plan pays no commissions, costs, fees, or other expenses with respect to the Sale; and

(d) As soon as it is feasible following the Sale, the Plan releases the deeds of trust securing the Notes.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on September 25, 2009 at 74 FR 49029.

FOR FURTHER INFORMATION CONTACT: Mr. Anh-Viet Ly of the Department at (202) 693–8648. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 15th day of December 2009.

Ivan Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. E9–30263 Filed 12–18–09; 8:45 am]

BILLING CODE 4510–29–P

[1] Unless otherwise noted herein, reference to specific provisions of the Act refer also to the corresponding provisions of the Code.

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–70,295]

Ultimizers, Inc., Boring, OR; Notice of Revised Determination on Reconsideration

By application dated September 21, 2009, a company official requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of Ultimizers, Inc., Boring, Oregon (subject firm) to apply for Trade Adjustment Assistance (TAA). The Department's Notice of Affirmative Determination Regarding Application for Reconsideration was signed on October 15, 2009, and published in the **Federal Register** on October 27, 2009 (74 FR 55261).

The initial investigation resulted in a negative determination issued on September 9, 2009, was based on the finding that imports of optimizing lumber cut-off saws, feeders, sorters and scanners did not contribute importantly to worker separations at the subject firm and no shift in production to a foreign source occurred.

To support the request for reconsideration, the petitioner supplied additional information regarding lost bids by the subject firm during the relevant period. The Department of Labor conducted a bid survey of the domestic firms to which the subject facility was the lowest domestic bidder. The results of the survey revealed that the bids were awarded to foreign producers. The loss of these contracts contributed importantly to the declines in sales and employment at the subject firm. The investigation further revealed that sales, production and employment at the subject firm declined during the relevant period.

Conclusion

After careful review of the additional facts obtained on reconsideration, I determine that workers of Ultimizers, Inc., Boring, Oregon, who are engaged in activities related to the production of parts feeding and assembly equipment meet the worker group certification

criteria under Section 222(a) of the Act, 19 U.S.C. 2272(a). In accordance with Section 223 of the Act, 19. U.S.C. 2273, I make the following certification:

All workers of Ultimizers, Inc., Boring, Oregon, who became totally or partially separated from employment on or after May 18, 2008, through two years from the date of this certification, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 10th day of December 2009.

Del Min Amy Chen,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–30256 Filed 12–18–09; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 74 FR 54084, and no substantial comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain*. 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; or (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: Office of Information and Regulatory Affairs of OMB, *Attention:* Desk Officer for National Science Foundation, 725—17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send e-mail to *chines@nsf.gov.* 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 703–292–7556.

FOR ADDITIONAL INFORMATION OR COMMENTS: Contact Suzanne Plimpton, the NSF Reports Clearance Officer, phone (703) 292–7556, or send e-mail to *splimpto@nsf.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

NSF 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.

SUPPLEMENTARY INFORMATION:

Title of Collection: Partnership for Innovation Program: Research and Technology Development Outcomes.

OMB Number: 3145–NEW.

Proposed Project: The proposed National Science Foundation Survey will collect data from a sample of about 435 companies that are partners on 84 PFI awards from 2003–2007 in order to examine research and technology development outcomes related to their participation on a PFI award.

Use of the Information: Analysis of these data is necessary to provide information to provide outcome evaluation and improvement evaluation of the Partnership for Innovation Program and to better understand the impact of some aspects of industry-university partnerships on companies.

Respondents: The Survey will be sent to companies that participated in 84 Partnerships for Innovation projects from 2003 to 2007. In total, we estimate that there are 435 companies affiliated with the 84 PFI projects.

Burden on the Public: The Foundation estimates about 435 responses annually at 20 minutes per response; this totals to approximately 145 hours annually.

Dated: December 16, 2009.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. E9–30270 Filed 12–18–09; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Facility Operating License No. R–102; Docket No. 50–252; NRC–2009–0557]

Notice of Acceptance for Docketing and Opportunity for Hearing on the Application Regarding Renewal for an Additional 20-Year Period for the University of New Mexico AGN–201M Research Reactor and Order Imposing Procedures for Access to Safeguards Information and Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of acceptance for docketing.

FOR FURTHER INFORMATION CONTACT: Paul V. Doyle Jr., Project manager, Research and Test Reactors Branch A, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Rockville, MD 20852. *Telephone:* (301) 415–1058; *fax number:* (301) 415–3031; *e-mail:* Paul.Doyle@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering an application for the renewal of Facility Operating License No. R–102 (''Application''), which currently authorizes the University of New Mexico (UNM, the licensee) to operate the University of New Mexico AGN–201M Reactor (UNMR) at a maximum steady-state thermal power of 5 watts (W) thermal power. The renewed license would authorize the applicant to operate the UNMR up to a steady-state thermal power of 5 W for an additional 20 years from the date of issuance.

On February 21, 2007, as supplemented on November 9, 2009, the NRC received an application from the licensee filed pursuant to 10 CFR Part 50.51(a), to renew Facility Operating License No. R–102 for the UNMR.

The Application contains sensitive unclassified non-safeguards information (SUNSI) and Safeguards Information (SGI).

Based on its initial review of the application, the NRC staff determined that UNM submitted sufficient

information in accordance with 10 CFR 50.33 and 50.34 so that the application is acceptable for docketing. The current Docket No. 50–252 for Facility Operating License No. R–102 will be retained. The docketing of the renewal application does not preclude requests for additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application. Prior to a decision to renew the license, the Commission will make findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

II. Opportunity To Request a Hearing or Petition To Intervene

Any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition must provide the name, address, and telephone number of the petitioner and specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest.

A petition for leave to intervene must also include a specification of the contentions that the petitioner seeks to have litigated in the hearing. For each contention, the petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings the NRC must make to support the granting of a license amendment in response to the application. The petition must also include a concise statement of the alleged facts or expert opinions which support the position of the petitioner and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the petitioner intends to rely. Finally, the petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. Each contention must be one that, if proven, would entitle the petitioner to relief.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Non-timely petitions for leave to intervene and contentions, amended petitions, and supplemental petitions will not be entertained absent a determination by the Commission, the Licensing Board or a Presiding Officer that the petition should be granted and/or the contentions should be admitted based upon a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

A State, county, municipality, Federally recognized Indian Tribe, or agencies thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(d)(2). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by February 19, 2010. The petition must be filed in accordance with the filing instructions in section III of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that State and Federally recognized Indian Tribes do not need to address the standing requirements in 10 CFR 2.309(d)(1) if the facility is located within its boundaries. The entities listed above could also seek to participate in a hearing as a nonparty pursuant to 10 CFR 2.315(c).

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to such limits and conditions as may be imposed by the Licensing Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by February 19, 2010.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/*

site-help/e-submittals.html. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E–Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by e-mail at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852 Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from December 21, 2009. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. Detailed guidance which the NRC uses to review applications for the renewal of non-power reactor licenses can be found in the documents NUREG–1537, entitled ''Guidelines for Preparing and Reviewing Applications for the Licensing of Non-Power Reactors'' and the ''Interim Staff Guidance on the Streamlined Review Process for License Renewal for Research Reactors'' (ISG) which can be obtained from the Commission's public document room (PDR). The detailed review guidance (NUREG–1537 and the ISG) may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html* under ADAMS Accession No. ML041230055 for part one of NUREG–1537, ML041230048 for part two of NUREG–1537 and ML092440244 for the ISG. Copies of the application to renew the facility license from the licensee are available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852–2738. The initial application and other related documents may be accessed through the NRC's Public Electronic Reading Room, at the address mentioned above, under ADAMS Accession Nos.: ML092170540 and ML093410385. 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.*

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information (including Sensitive Unclassified Non-Safeguards Information (SUNSI) and Safeguards Information (SGI)). Requirements for access to SGI are primarily set forth in 10 CFR Parts 2 and 73. Nothing in this Order is intended to conflict with the SGI regulations.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI or SGI is necessary to respond to

this notice may request access to SUNSI or SGI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI or SGI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI, SGI, or both to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, *Attention:* Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);

(3) If the request is for SUNSI, the identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention;

(4) If the request is for SGI, the identity of each individual who would have access to SGI if the request is granted, including the identity of any expert, consultant, or assistant who will aid the requestor in evaluating the SGI. In addition, the request must contain the following information:

(a) A statement that explains each individual's ''need to know'' the SGI, as required by 10 CFR 73.2 and 10 CFR 73.22(b)(1). Consistent with the definition of ''need to know'' as stated in 10 CFR 73.2, the statement must explain:

(i) Specifically why the requestor believes that the information is necessary to enable the requestor to proffer and/or adjudicate a specific contention in this proceeding; [2] and

(ii) The technical competence (demonstrable knowledge, skill, training or education) of the requestor to effectively utilize the requested SGI to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant, or assistant who satisfies these criteria.

(b) A completed Form SF–85, ''Questionnaire for Non-Sensitive Positions'' for each individual who would have access to SGI. The completed Form SF–85 will be used by the Office of Administration to conduct the background check required for access to SGI, as required by 10 CFR Part 2, Subpart G and 10 CFR 73.22(b)(2), to determine the requestor's trustworthiness and reliability. For security reasons, Form SF–85 can only be submitted electronically through the electronic questionnaire for investigations processing (e-QIP) Web site, a secure Web site that is owned and operated by the Office of Personnel Management. To obtain online access to the form, the requestor should contact the NRC's Office of Administration at (301) 492–3524.[3]

(c) A completed Form FD–258 (fingerprint card), signed in original ink, and submitted in accordance with 10 CFR 73.57(d). Copies of Form FD–258 may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, by calling (301) 415–7232 or (301) 492–7311, or by e-mail to *Forms.Resource@nrc.gov.* The fingerprint card will be used to satisfy the requirements of 10 CFR part 2, 10 CFR 73.22(b)(1), and Section 149 of the Atomic Energy Act of 1954, as amended, which mandates that all persons with access to SGI must be fingerprinted for an FBI identification and criminal history records check;

(d) A check or money order payable in the amount of $ 200.00 [4] to the U.S. Nuclear Regulatory Commission for each individual for whom the request for access has been submitted, and

(e) If the requestor or any individual who will have access to SGI believes they belong to one or more of the categories of individuals that are exempt from the criminal history records check and background check requirements in 10 CFR 73.59, the requestor should also provide a statement identifying which exemption the requestor is invoking and explaining the requestor's basis for believing that the exemption applies. While processing the request, the Office of Administration, Personnel Security Branch, will make a final determination whether the claimed exemption applies. Alternatively, the requestor may contact the Office of Administration for an evaluation of their exemption status prior to submitting their request. Persons who are exempt from the background check are not required to complete the SF–85 or Form FD–258; however, all other requirements for access to SGI, including the need to know, are still applicable.

Note: Copies of documents and materials required by paragraphs C.(4)(b), (c), and (d) of this Order must be sent to the following address: Office of Administration, U.S. Nuclear Regulatory Commission, Personnel Security Branch, Mail Stop TWB–05–B32M, Washington, DC 20555–0001.

These documents and materials should not be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as required above.

D. To avoid delays in processing requests for access to SGI, the requestor should review all submitted materials for completeness and accuracy (including legibility) before submitting them to the NRC. The NRC will return incomplete packages to the sender without processing.

E. Based on an evaluation of the information submitted under paragraphs C.(3) or C.(4) above, as applicable, the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

[2] Broad SGI requests under these procedures are unlikely to meet the standard for need to know; furthermore, staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requestor's need to know than ordinarily would be applied in connection with an already-admitted contention or non-adjudicatory access to SGI.

[3] The requestor will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and e-mail address. After providing this information, the requestor usually should be able to obtain access to the online form within one business day.

[4] This fee is subject to change pursuant to the Office of Personnel Management's adjustable billing rates.

(2) The requestor has established a legitimate need for access to SUNSI or need to know the SGI requested.

F. For requests for access to SUNSI, if the NRC staff determines that the requestor satisfies both E.(1) and E.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [5] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

G. For requests for access to SGI, if the NRC staff determines that the requestor has satisfied both E.(1) and E.(2) above, the Office of Administration will then determine, based upon completion of the background check, whether the proposed recipient is trustworthy and reliable, as required for access to SGI by 10 CFR 73.22(b). If the Office of Administration determines that the individual or individuals are trustworthy and reliable, the NRC will promptly notify the requestor in writing. The notification will provide the names of approved individuals as well as the conditions under which the SGI will be provided. Those conditions may include, but not be limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [6] by each individual who will be granted access to SGI.

H. *Release and Storage of SGI.* Prior to providing SGI to the requestor, the NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection system is sufficient to satisfy the requirements of 10 CFR 73.22. Alternatively, recipients may opt to view SGI at an approved SGI storage location rather than establish their own SGI protection program to meet SGI protection requirements.

I. *Filing of Contentions.* Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI or SGI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

J. *Review of Denials of Access.*

(1) If the request for access to SUNSI or SGI is denied by the NRC staff either after a determination on standing and requisite need, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) Before the Office of Administration makes an adverse determination regarding the proposed recipient(s) trustworthiness and reliability for access to SGI, the Office of Administration, in accordance with 10 CFR 2.705(c)(3)(iii), must provide the proposed recipient(s) any records that were considered in the trustworthiness and reliability determination, including those required to be provided under 10 CFR 73.57(e)(1), so that the proposed recipient(s) have an opportunity to correct or explain the record.

(3) The requestor may challenge the NRC staff's adverse determination with respect to access to SUNSI by filing a challenge within 5 days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(4) The requestor may challenge the NRC staff's or Office of Administration's adverse determination with respect to access to SGI by filing a request for review in accordance with 10 CFR 2.705(c)(3)(iv). Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

K. *Review of Grants of Access.* A party other than the requestor may challenge an NRC staff determination granting access to SUNSI or SGI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[7]

L. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 15th day of December 2009.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[5] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[6] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SGI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 180 days of the deadline for the receipt of the written access request.

[7] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI/SGI request submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION AND SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/Activity
0	Publication of FEDERAL REGISTER notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and/or Safeguards Information (SGI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (*e.g.,* showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.
25	If NRC staff finds no ''need,'' no ''need to know,'' or no likelihood of standing, the deadline for petitioner/requestor to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). NOTE: Before the Office of Administration makes an adverse determination regarding access to SGI, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff trustworthiness or reliability determination either before the presiding officer or another designated officer under 10 CFR 2.705(c)(3)(iv).
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50–286; NRC–2009–0562]

Entergy Nuclear Operations, Inc.; Notice of Consideration of Issuance of Amendment To Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–64, issued to Entergy Nuclear Operations, Inc. (the licensee), for operation of the Indian Point Nuclear Generating Unit No. 3 (IP3) located in Westchester County, New York.

The proposed amendment would allow a one-time extension of the 72-hour completion time of Technical Specification (TS) 3.7.5, Condition B, Action B.1 ''Restore AFW [auxiliary feedwater] train to OPERABLE status'' by 34 hours.

On November 23, 2009, the No. 32 auxiliary boiler feedwater pump (ABFP) was found to have high axial vibrations. The ABFP is used for plant startup. It also supplies high pressure feedwater to

the steam generators in order to maintain sufficient water inventory in the steam generators to allow for the removal of decay heat from the reactor coolant system. An exigent TS change is being requested in order to further evaluate the cause of the high vibrations, to inspect/replace the bearing and to perform other corrective actions as needed to increase the reliability of the pump. Performing further assessment/repairs would provide greater assurance that the pump will not see an unexpected increase in vibrations due to future testing.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed change revises the allowed outage time (AOT) for the steam driven Auxiliary Boiler Feedwater Pump (ABFP) on a one time basis. Revising the AOT is not an accident initiator since an ABFP is a mitigating system. Therefore the proposed changes do not increase the probability of an accident occurring. The proposed AOT change is a one time increase that will allow repairs without the transient of shutdown. The plant is designed for single failure and recognizes that inoperability for short periods does not cause a significant increase in the consequences of an accident. The one time increase in this outage time is compensated with measures to reduce the potential need for the ABFP and the effects of events that could require the pump. Therefore the increase does not significantly increase the consequences of an accident. Therefore the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed change revises the allowed outage time for the ABFP on a one time basis. The proposed change does not involve installation of new equipment or modification of existing equipment, so no new equipment failure modes are introduced. The proposed revision is not a change to the way that the equipment or facility is operated or analyzed and no new accident initiators are created. Therefore the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

No. The reduction in the margin of safety associated with continued IP3 operation with Auxiliary Boiler Feedwater (ABF) pump 32 out of service during a 34 hour period beyond current allowed outage time is represented by an increase of approximately 50 percent in the allowed outage time. This change in the margin of safety has been compensated for by specific compensatory measures to reduce the potential need for the pump and to address postulated events that could require the pump. The increase in core damage frequency (CDF) associated with continued IP3 operation with ABFP 32 out of service for a duration of 106 hours which represents a 34 hour period beyond the current allowed outage time is 3.9E–5 per reactor year (ry). This results in an incremental conditional core damage probability (ICCDP) of 4.8E–07, which is below the ICCDP guidance threshold of 5E–07 identified in NRC Inspection Manual Part 9900. The ICCDP includes risk due to external events due to seismic, fire, and flood. The increase in large early release frequency (LERF) was estimated as 4.2E–7/ry (including external events), which results in an incremental conditional large early release probability (ICLERP) of 5.1E–9. Therefore the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking and Directives Branch (RDB), TWB–05–B01M, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be faxed to the RDB at 301–492–3446. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

Within 60 days of this notice, any person(s) whose interest may be affected may file a request for hearing/petition to intervene. As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the requestor/petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must

also provide references to those specific sources and documents of which the requestor/petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The requestor/petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by e-mail at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from December 21, 2009. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

For further details with respect to this exigent license application, see the application for amendment dated December 15, 2009, which is available for public inspection at the Commission'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's (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*.

Attorney for licensee: Mr. William C. Dennis, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

Dated at Rockville, Maryland, this 15th day of December 2009.

For the Nuclear Regulatory Commission.

Nancy L. Salgado,

Chief, Plant Licensing Branch I–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E9–30232 Filed 12–18–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–133; NRC–2009–0560]

Pacific Gas and Electric Company; Humboldt Bay Power Plant Unit 3 Exemption From Certain Low-Level Waste Shipment Tracking Requirements In 10 CFR Part 20 Appendix G

1.0 Background

The Pacific Gas and Electric Company (PG&E) is the licensee and holder of Facility Operating License No. DPR–7 issued for Humboldt Bay Power Plant, Unit 3 (HBPP), located in Humboldt County, California. HBPP is a permanently shutdown nuclear reactor facility. PG&E is beginning the process of decommissioning HBPP and the amount of radioactive waste shipped from the site is expected to significantly increase. During the decommissioning process, large volumes of slightly contaminated concrete rubble and debris are generated that require shipment for disposal in offsite low-level radioactive waste disposal sites. Experience at other decommissioning nuclear power facilities has shown that, due primarily to the volume of radioactive waste, licensees have encountered an increase in the number of routine shipments that take longer than 20 days from transfer to the shipper to receipt acknowledgment from the disposal site. Each shipment with receipt notifications greater than 20 days requires a special investigation and report to the U.S. Nuclear Regulatory Commission (NRC or the Commission) which the licensee believes to be burdensome and unnecessary to meet the intent of the regulation.

2.0 Request/Action

In a letter to the Commission dated September 4, 2009, PG&E requested an exemption from the requirements in 10 CFR part 20, appendix G, section III.E, to investigate and file a report to the NRC if shipments of low-level radioactive waste are not acknowledged by the intended recipient within 20 days after transfer to the shipper. This exemption would extend the time period that can elapse during shipments of low-level radioactive waste before PG&E is required to investigate and file a report to the NRC from 20 days to 45 days. The exemption would be applicable to mixed-mode shipments such as combination truck/rail, barge/rail and barge/truck shipping methods. The exemption request is based on an analysis of the historical data of low-level radioactive waste shipment times from the Southern California Edison Company's San Onofre Nuclear Generating Station (SONGS) site to the disposal site.

3.0 Discussion

The proposed action would grant an exemption to extend the 20-day investigation and reporting requirements for shipments of low-level radioactive waste to 45 days.

Historical data derived from experience at SONGS, indicates that rail transportation time to waste disposal facilities frequently exceeded the 20-day reporting requirement. A review of the SONGS data indicates that transportation time for shipments by rail or truck/rail took over 16 days on average and, on occasion, took up to 57 days. In addition, administrative processes at the disposal facilities and mail delivery times could add several additional days.

HBPP is in a more remote location than SONGS and is not near a railhead. Shipping from HBPP may require a combination of truck/rail, barge/rail or barge/truck shipments. These mixed-mode shipments will be comprised of truck and barge shipments from HBPP to inland locations in California or nearby states, followed by rail shipments to the waste disposal facilities or processors. The additional step of transloading material at a remote railyard (e.g., unloading and loading, waiting for the train to depart) is expected to add to shipping delays that exceed the time of shipments from SONGS. Therefore, HBPP is requesting an extension to 45 days.

Pursuant to 10 CFR 20.2301, the Commission may, upon application by a licensee or upon its own initiative, grant an exemption from the requirements of regulations in 10 CFR part 20 if it determines the exemption is authorized by law and would not result in undue hazard to life or property. There are no provisions in the Atomic Energy Act (or in any other Federal statute) that impose a requirement to investigate and report on low-level radioactive waste shipments that have not been acknowledged by the recipient within 20 days of transfer. Therefore, the Commission concludes that there is no statutory prohibition on the issuance of the requested exemption and the Commission is authorized to grant the exemption by law.

The Commission acknowledges that, based on the statistical analysis of low-level radioactive waste shipments from the SONGS site, the need to investigate and report on shipments that take longer than 20 days could result in an excessive administrative burden on the

licensee. The Commission finds that the underlying purpose of the Appendix G timing provision at issue is to investigate a late shipment that may be lost, misdirected, or diverted. For mixed-mode shipments, PG&E contracts awarded to carriers will require electronic data tracking system interchange, or similar tracking systems that allow monitoring the progress of the shipments. The contracts will require a daily update be provided for the location of the conveyance via e-mail. Because of the oversight and monitoring of radioactive waste shipments throughout the entire journey from HBPP to the disposal site, it is unlikely that a shipment could be lost, misdirected, or diverted without the knowledge of the carrier or PG&E. Furthermore, by extending the elapsed time for receipt acknowledgment to 45 days before requiring investigations and reporting, a reasonable upper limit on shipment duration (based on historical analysis) is still maintained if a breakdown of normal tracking systems were to occur. Consequently, the Commission finds that there is no hazard to life or property by extending the investigation and reporting time for low-level radioactive waste shipments from 20 days to 45 days for mixed-mode shipments. Therefore, the Commission concludes that the underlying purpose of 10 CFR part 20, appendix G, section III.E will be met.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 20.2301, the exemption requested by PG&E in its September 4, 2009, letter is authorized by law and will not result in undue hazards to life or property. Therefore, the Commission hereby grants PG&E an exemption to extend the 20-day investigation and reporting requirements for shipments of low-level radioactive waste, as required by 10 CFR part 20, appendix G, section III.E, to 45 days.

Pursuant to 10 CFR 51.31, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment as documented in **Federal Register** (FR) notice 74 FR 65165 December 9, 2009.

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 11th day of December, 2009.

For the Nuclear Regulatory Commission.

Keith I. McConnell,

Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. E9–30316 Filed 12–18–09; 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 December 21, 28, 2009, January 4, 11, 18, 25, 2010.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

Week of December 21, 2009

There are no meetings scheduled for the week of December 21, 2009.

Week of December 28, 2009—Tentative

There are no meetings scheduled for the week of December 28, 2009.

Week of January 4, 2010—Tentative

Thursday, January 7, 2010

12:15 p.m. Affirmation Session (Public Meeting) (Tentative).

a. *PPL Bell Bend, LLC* (Combined License Application for Bell Bend Nuclear Power Plant), LBP–09–18 (Ruling on Standing and Contention Admissibility) (Tentative).

b. *Shieldalloy Metallurgical Corp.* (License Amendment Request for Decommissioning the Newfield Site), Shieldalloy's Amended Motion for Stay Pending Judicial Review of Commission Action Transferring Regulatory Authority Over Newfield, New Jersey Site to the State of New Jersey (Oct. 14, 2009) (Tentative).

Week of January 11, 2010—Tentative

Tuesday, January 12, 2010

9:30 a.m. Briefing on Office of Nuclear Security and Incident Response—Programs, Performance, and Future Plans (Public Meeting) (*Contact:* Marshall Kohen, 301–415–5436).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

1:30 p.m. Briefing on Threat Environment Assessment (Closed—Ex. 1).

Week of January 18, 2010—Tentative

Tuesday, January 19, 2010

9:30 a.m. Briefing on the NRC Enforcement and Allegations Programs (Public Meeting) (*Contact:* Shahram Ghasemian, 301–415–3591).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of January 25, 2010—Tentative

Tuesday, January 26, 2010

9:30 a.m. Briefing on Office of Nuclear Reactor Regulation—Programs, Performance, and Future Plans (Public Meeting) (*Contact:* Quynh Nguyen, 301–415–5844).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

* * * * *

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Rochelle Bavol, (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/about-nrc/policy-making/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify 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: December 16, 2009.

Rochelle C. Bavol,

Office of the Secretary.

[FR Doc. E9–30381 Filed 12–17–09; 4:15 pm]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

Ironwood Mezzanine Fund II, L.P.; License No. 01/01–0414; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Ironwood Mezzanine Fund II, L.P. 200 Fisher Drive, Avon, CT 06001–3723, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Ironwood Mezzanine Fund II, L.P. proposes to provide debt/equity security financing to Action Carting Environmental Services, Inc., 451 Frelinghuysen Avenue, Newark, NJ 07114. The financing is contemplated as part of a debt/equity issuance, the proceeds of which will be used for planned acquisitions.

The financing is brought within the purview of § 107.730(a) of the Regulations because Ironwood Equity Fund, L.P., an Associate of Ironwood Mezzanine Fund II, L.P., owns more than ten percent of Action Carting Environmental Services, Inc., and this transaction is considered a Financing of an Associate requiring an exemption to the Regulations.

Notice is hereby given that any interested person may submit written comments on the transaction, within 15 days of the date of publication, to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: December 9, 2009.

Sean Greene,

Associate Administrator for Investment.

[FR Doc. E9–30212 Filed 12–18–09; 8:45 am]

BILLING CODE 8025–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting Notice

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Tuesday, December 22, 2009 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Aguilar, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session, and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting scheduled for Tuesday, December 22, 2009 will be:

[I]nstitution and settlement of injunctive actions; institution and settlement of administrative proceedings; and other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: December 17, 2009.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–30427 Filed 12–17–09; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Somatic Systems, Inc.; Order of Suspension of Trading

December 17, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Somatic Systems, Inc. because questions have arisen regarding the company's issuance of stock, trading in the company's stock, and the adequacy and accuracy of company press releases concerning, among other things, the company's current financial condition and business operations.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EST, on December 17, 2009 through 11:59 p.m. EST, on December 31, 2009.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E9–30351 Filed 12–17–09; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of American Sports Development Group, Inc., Cybernet Internet Services International, Inc., Cyper Media, Inc., Frisby Technologies, Inc., Graphco Holdings Corp., Investors Insurance Group, Inc., ITC Learning Corp., and Speizman Industries, Inc.; Order of Suspension of Trading

December 17, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of American Sports Development Group, Inc. because it has not filed any periodic reports since the period ended December 31, 2003.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Cybernet Internet Services International, Inc. because it has not filed any periodic reports since the period ended September 30, 2003.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Cyper Media, Inc. because it has not filed any periodic reports since the period ended March 31, 2004.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Frisby Technologies, Inc. because it has not filed any periodic reports since the period ended September 30, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Graphco Holdings Corp. because it has not filed any periodic reports since the period ended September 30, 2003.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Investors

Insurance Group, Inc. because it has not filed any periodic reports since the period ended September 30, 2003.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ITC Learning Corp. because it has not filed any periodic reports since the period ended March 31, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Speizman Industries, Inc. because it has not filed any periodic reports since the period ended December 27, 2003.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EST on December 17, 2009, through 11:59 p.m. EST on December 31, 2009.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E9–30359 Filed 12–17–09; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Placer Gold Corp. f\k\a Arctic Oil and Gas Corp.; Order of Suspension of Trading

December 17, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Placer Gold Corporation (f\k\a Arctic Oil and Gas Corp.) because questions have arisen regarding the accuracy of assertions in press releases, company Web sites and periodic reports filed with the Commission concerning, among other things, the company's financial condition.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EST, on December 17, 2009 through 11:59 p.m. EST, on December 31, 2009.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E9–30354 Filed 12–17–09; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61165; File No. SR–FINRA–2009–085]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Order Reporting Requirements on the Alternative Display Facility

December 15, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 2, 2009, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 6250 to allow end-of-day order reporting and require that participants on the Alternative Display Facility (''ADF'') provide order information to FINRA immediately upon request.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In 2002, FINRA created the ADF to ensure that any FINRA member, including alternative trading systems, seeking to display quotations for NMS stocks in the over-the-counter (''OTC'') market, rather than through an exchange platform, has an alternative venue through which to post its OTC quotations and report trades.[4] Pursuant to FINRA Rule 6250(b), any ADF Trading Center that displays quotations on the ADF must record certain order and order response information and report the information to FINRA within ten seconds of receipt of the order or of any response to or action taken regarding an order, respectively. These requirements were originally included in the ADF rules to allow FINRA to ensure that ADF participants were complying with certain trading rules, including honoring their quotations displayed on the ADF and not ''backing away'' from orders received against such displayed quotations.[5]

FINRA has found that receiving ADF order reporting data real-time has been of minimal value due to the very limited instances of ''backing away'' on the ADF and that real-time order reporting poses a significant strain on the ADF's real-time systems capacity. To the latter point, because of capacity issues, LavaFlow, Inc. (''LavaFlow''), currently the sole ADF participant, requested that FINRA consider amending Rule 6250 to

[4] Initially, the ADF was limited to quotations and trade reports in Nasdaq securities. *See* Securities Exchange Act Release No. 46249 (July 24, 2002), 67 FR 49822 (July 31, 2002). In 2006, the ADF was expanded to include all NMS stocks. *See* Securities Exchange Act Release No. 54537 (September 28, 2006), 71 FR 59173 (October 6, 2006).

[5] *See* Securities Exchange Act Release No. 46249 (July 24, 2002), 67 FR 49822 (July 31, 2002). Consistent with Rule 602(b)(2) of SEC Regulation NMS, quotations on the ADF must be ''firm.'' *See* 17 CFR 242.602(b)(2); FINRA Rule 6272(b).

permit end-of-day order reporting rather than require ten-second order reporting. LavaFlow stated that it believed that such an amendment would address strains on the ADF's capacity while still providing FINRA with accurate and timely order information.

Accordingly, FINRA is proposing to replace the current ten-second order reporting requirement with an end-of-day order reporting requirement; however, to ensure that FINRA has prompt access to this regulatory information if necessary (*e.g.,* a ''backing-away'' complaint is made against an ADF Trading Center), the proposed rule change also requires ADF Trading Centers to provide order information to FINRA immediately upon request. Thus, the proposed rule change will improve the systems supporting the ADF and its functionality by reducing the amount of real-time reporting that must flow through ADF systems, while still providing FINRA with order information on a timely basis.[6]

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, such that FINRA can implement the proposed rule change immediately.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[7] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will enhance the ADF's functionality and decrease the likelihood of systems issues while continuing to ensure that FINRA has necessary regulatory information sufficient to monitor for compliance with applicable rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

A copy of a letter submitted by LavaFlow requesting amendments to the ADF order reporting rule was attached to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(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, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

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–FINRA–2009–085 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–FINRA–2009–085. 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–FINRA–2009–085 and should be submitted on or before January 11, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–30240 Filed 12–18–09; 8:45 am]

BILLING CODE 8011–01–P

[6] ADF Trading Centers would transmit the same information in the same format as currently required. Consequently, the sole effect of the proposed rule change is to provide ADF Trading Centers with additional time to report order information.

[7] 15 U.S.C. 78*o*–3(b)(6).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 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.

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61157; File No. SR–NYSEAmex–2009–88]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Amex Rule 352 and Adopting New Rule 2150—NYSE Amex Equities To Correspond With Rule Changes Filed by the Financial Industry Regulatory Authority, Inc.

December 11, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 10, 2009, NYSE Amex LLC (''NYSE Amex'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by NYSE Amex. NYSE Amex filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 352—NYSE Amex Equities and adopt new Rule 2150—NYSE Amex Equities to correspond with rule changes filed by the Financial Industry Regulatory Authority, Inc. (''FINRA'') and approved by the Commission.[5] 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 changes is to amend Rule 352—NYSE Amex Equities (Guarantees, Sharing in Accounts, and Loan Arrangements) and adopt new Rule 2150—NYSE Amex Equities (Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts) to correspond with rule changes filed by FINRA and approved by the Commission.

Background

On July 30, 2007, FINRA's predecessor, the National Association of Securities Dealers, Inc. (''NASD''), and NYSE Regulation, Inc. (''NYSER'') consolidated their member firm regulation operations into a combined organization, FINRA. Pursuant to Rule 17d–2 under the Act,[6] the New York Stock Exchange LLC (''NYSE''), NYSER and FINRA entered into an agreement (the ''Agreement'') to reduce regulatory duplication for their members by allocating to FINRA certain regulatory responsibilities for certain NYSE rules and rule interpretations (''FINRA Incorporated NYSE Rules''). The Exchange became a party to the Agreement effective December 15, 2008.[7]

As part of its effort to reduce regulatory duplication and relieve firms that are members of FINRA, NYSE and NYSE Amex of conflicting or unnecessary regulatory burdens, FINRA is now engaged in the process of reviewing and amending the NASD and FINRA Incorporated NYSE Rules in order to create a consolidated FINRA rulebook.[8]

Proposed Conforming Amendments to NYSE Amex Equities Rules

FINRA adopted parts of NASD Rule 2330 (Customers' Securities of Funds) as consolidated FINRA Rule 2150 (Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts). In adopting consolidated FINRA Rule 2150, FINRA also took into account certain provisions of FINRA Incorporated NYSE Rule 352 (Guarantees, Sharing in Accounts, and Loan Arrangements).[9]

Because they are substantially similar to the provisions of FINRA Rule 2150 or are otherwise incorporated into the Supplementary Material to the Rule, FINRA deleted the corresponding provisions of FINRA Incorporated NYSE Rule 352(a)–(d). In particular, FINRA Incorporated NYSE Rule 352(a), which prohibits members, member organizations and their employees from guaranteeing or representing that it will guarantee a customer against loss in any account or on any transaction, is substantially the same as FINRA Rule 2150(b).[10]

In addition, FINRA Incorporated NYSE Rule 352(b) and (c) prohibit members, member organizations and their employees from sharing in profits or losses in a customer's account or on any transaction except, subject to written authorization by the member or member organization (though not prior written customer authorization), in direct proportion to the financial contributions made to the account. FINRA Incorporated NYSE Rule 352(c) also permits sharing in customer losses resulting from an erroneous transaction. FINRA Incorporated NYSE Rule 352(d) permits sharing arrangements that comply with Rule 205 of the Investment Advisers Act of 1940, as amended,[11] though again, there is no requirement for prior written customer authorization. These provisions are all substantially similar to those of consolidated FINRA Rule 2150(c) and the Supplementary Material.[12]

To harmonize the NYSE Amex Equities Rules with the approved FINRA Rules, the Exchange correspondingly proposes to delete the provisions of Rule 352(a)–(d)—NYSE Amex Equities and replace them with proposed Rule 2150—NYSE Amex Equities, which is substantially similar to the new FINRA Rule.[13] As proposed, Rule 2150—NYSE Amex Equities adopts the same language as FINRA Rule 2150, except for substituting for or adding to, as needed, the term ''member organization'' for the term ''member'', and making corresponding technical changes. In addition, in Supplementary

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 60701 (September 21, 2009), 74 FR 49425 (September 28, 2009) (order approving FINRA 09–14).

[6] 15 U.S.C. 78a, *et seq.*

[7] *See* Securities Exchange Act Release Nos. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (order approving the Agreement); 56147 (July 26, 2007), 72 FR 42166 (August 1, 2007) (SR–NASD–2007–054) (order approving the incorporation of certain NYSE Rules as ''Common Rules''); *and* 60409 (July 30, 2009), 74 FR 39353 (August 6, 2009) (order approving the amended and restated Agreement, adding NYSE Amex as a party). Paragraph 2(b) of the Agreement sets forth procedures regarding proposed changes by FINRA, NYSE or NYSE Amex to the substance of any of the Common Rules.

[8] FINRA's rulebook currently has three sets of rules: (1) NASD Rules, (2) FINRA Incorporated NYSE Rules, and (3) consolidated FINRA Rules. The FINRA Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE, while the consolidated FINRA Rules apply to all FINRA members. For more information about the FINRA rulebook consolidation process, *see* FINRA Information Notice, March 12, 2008.

[9] *See* Securities Exchange Act Release No. 60701 (September 21, 2009), 74 FR 49425 (September 28, 2009).

[10] *See* Securities Exchange Act Release No. 60701 (September 21, 2009), 74 FR 49425 (September 28, 2009).

[11] 15 U.S.C. 80b–1, *et seq.*

[12] *See* Securities Exchange Act Release No. 60701 (September 21, 2009), 74 FR 49425 (September 28, 2009).

[13] NYSE has submitted a companion rule filing amending its rules in accordance with FINRA's rule changes. *See* SR–NYSE–2009–123.

Material .04 to proposed Rule 2150—NYSE Amex Equities, the Exchange substituted NYSE Amex Equities Rules 346, 407 and 407A for NASD Rules 3030, 3040 and 3050 cross-referenced in the FINRA Rule, as these rules, which are analogous in purpose, have not yet been harmonized by FINRA.

Finally, in order to ensure that both proposed Rule 2150—NYSE Amex Equities and FINRA Rule 2150 are fully harmonized, the Exchange also proposes to add Supplementary Material .05 to Rule 2150—NYSE Amex Equities to provide that, for the purposes of the rule, the term ''associated person of a member or member organization'' shall have the same meaning as the terms ''person associated with a member'' or ''associated person of a member'' as defined in Article I (rr) of the FINRA By-Laws.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with Section 6(b) of the Act,[14] in general, and further the objectives of Section 6(b)(5) of the Act,[15] in particular, in that they are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule changes also support the principles of Section 11A(a)(1)[16] of the Act in that they seek to ensure the economically efficient execution of securities transactions and fair competition among brokers and dealers and among exchange markets.

The Exchange believes that the proposed rule changes support the objectives of the Act by providing greater harmonization between NYSE Amex Equities Rules and FINRA Rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for joint members. To the extent the Exchange has proposed changes that differ from the FINRA version of the Rules, such changes are technical in nature and do not change the substance of the proposed NYSE Amex Equities Rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[17] and Rule 19b–4(f)(6) thereunder.[18] 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, if consistent with the protection of investors and public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[19] and Rule 19b–4(f)(6) thereunder.[20]

A proposed rule change filed under 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[21] 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 set forth in Rule 19b–4(f)(6)(iii) under the Act[22] in order for the rule to become operative upon filing. The Commission notes that the operative date of FINRA 2150 becomes operative on December 14, 2009.[23] The Commission believes that the earlier operative date is consistent with the protection of investors and the public interest because the proposed rule change permits the Exchange to implement the rule without further delay and will prevent any potential regulatory gaps between the FINRA and NYSE Amex Rules.[24]

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–NYSEAmex–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–NYSEAmex–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

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78k–1(a)(1).

[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 17 CFR 240.19b–4(f)(6).

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization 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 Commission notes that NYSE has satisfied the five-day pre-filing notice requirement.

[22] 17 CFR 240.19b–4(f)(6)(iii).

[23] *See* FINRA Regulatory Notice 09–60 (October 15, 2009).

[24] 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. 15 U.S.C. 78c(f).

the principal office of NYSE Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2009–88 and should be submitted on or before January 11, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–30241 Filed 12–18–09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61158; File No. SR–NYSE–2009–123]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Rule 352 and Adopting New Rule 2150 To Correspond With Rule Changes Filed by the Financial Industry Regulatory Authority, Inc.

December 11, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 10, 2009, the New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by NYSE. NYSE filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 352 and adopt new Rule 2150 to correspond with rule changes filed by the Financial Industry Regulatory Authority, Inc. (''FINRA'') and approved by the Commission.[5] 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 changes is to amend NYSE Rule 352 (Guarantees, Sharing in Accounts, and Loan Arrangements) and adopt new Rule 2150 (Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts) to correspond with rule changes filed FINRA and approved by the Commission.

Background

On July 30, 2007, FINRA's predecessor, the National Association of Securities Dealers, Inc. (''NASD''), and NYSE Regulation, Inc. (''NYSER'') consolidated their member firm regulation operations into a combined organization, FINRA. Pursuant to Rule 17d–2 under the Act,[6] NYSE, NYSER and FINRA entered into an agreement (the ''Agreement'') to reduce regulatory duplication for their members by allocating to FINRA certain regulatory responsibilities for certain NYSE rules and rule interpretations (''FINRA Incorporated NYSE Rules''). NYSE Amex LLC (''NYSE Amex'') became a party to the Agreement effective December 15, 2008.[7]

As part of its effort to reduce regulatory duplication and relieve firms that are members of FINRA, NYSE and NYSE Amex of conflicting or unnecessary regulatory burdens, FINRA is now engaged in the process of reviewing and amending the NASD and FINRA Incorporated NYSE Rules in order to create a consolidated FINRA rulebook.[8]

Proposed Conforming Amendments to NYSE Rules

FINRA adopted parts of NASD Rule 2330 (Customers' Securities of Funds) as consolidated FINRA Rule 2150 (Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts). In adopting consolidated FINRA Rule 2150, FINRA also took into account certain provisions of FINRA Incorporated NYSE Rule 352 (Guarantees, Sharing in Accounts, and Loan Arrangements).[9]

Because they are substantially similar to the provisions of FINRA Rule 2150 or are otherwise incorporated into the Supplementary Material to the Rule, FINRA deleted the corresponding provisions of FINRA Incorporated NYSE Rule 352(a)–(d). In particular, FINRA Incorporated NYSE Rule 352(a), which prohibits members, member organizations and their employees from guaranteeing or representing that it will guarantee a customer against loss in any account or on any transaction, is substantially the same as FINRA Rule 2150(b).[10]

In addition, FINRA Incorporated NYSE Rule 352(b) and (c) prohibit members, member organizations and their employees from sharing in profits or losses in a customer's account or on any transaction except, subject to written authorization by the member or member organization (though not prior written customer authorization), in direct proportion to the financial contributions made to the account.

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[25] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 60701 (September 21, 2009), 74 FR 49425 (September 28, 2009) (order approving FINRA 09–14).

[6] 15 U.S.C. 78a, *et seq.*

[7] *See* Securities Exchange Act Release Nos. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (order approving the Agreement); 56147 (July 26, 2007), 72 FR 42166 (August 1, 2007) (SR–NASD–2007–054) (order approving the incorporation of certain NYSE Rules as ''Common Rules''); *and* 60409 (July 30, 2009), 74 FR 39353 (August 6, 2009) (order approving the amended and restated Agreement, adding NYSE Amex as a party). Paragraph 2(b) of the Agreement sets forth procedures regarding proposed changes by FINRA, NYSE or NYSE Amex to the substance of any of the Common Rules.

[8] FINRA's rulebook currently has three sets of rules: (1) NASD Rules, (2) FINRA Incorporated NYSE Rules, and (3) consolidated FINRA Rules. The FINRA Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (''Dual Members''), while the consolidated FINRA Rules apply to all FINRA members. For more information about the FINRA rulebook consolidation process, *see* FINRA Information Notice, March 12, 2008.

[9] *See* Securities Exchange Act Release No. 60701 (September 21, 2009), 74 FR 49425 (September 28, 2009).

[10] *See* Securities Exchange Act Release No. 60701 (September 21, 2009), 74 FR 49425 (September 28, 2009).

FINRA Incorporated NYSE Rule 352(c) also permits sharing in customer losses resulting from an erroneous transaction. FINRA Incorporated NYSE Rule 352(d) permits sharing arrangements that comply with Rule 205 of the Investment Advisers Act of 1940, as amended,[11] though again, there is no requirement for prior written customer authorization. These provisions are all substantially similar to those of consolidated FINRA Rule 2150(c) and the Supplementary Material.[12]

To harmonize the NYSE Rules with the approved FINRA Rules, the Exchange correspondingly proposes to delete the provisions of NYSE Rule 352(a)–(d) and replace them with proposed NYSE Rule 2150, which is substantially similar to the new FINRA Rule.[13] As proposed, NYSE Rule 2150 adopts the same language as FINRA Rule 2150, except for substituting for or adding to, as needed, the term ''member organization'' for the term ''member'', and making corresponding technical changes. In addition, in Supplementary Material .04 to proposed Rule 2150, the Exchange substituted NYSE Rules 346, 407 and 407A for NASD Rules 3030, 3040 and 3050 cross-referenced in the FINRA Rule, as these rules, which are analogous in purpose, have not yet been harmonized by FINRA.

Finally, in order to ensure that both proposed NYSE Rule 2150 and FINRA Rule 2150 are fully harmonized, the Exchange also proposes to add Supplementary Material .05 to NYSE Rule 2150 to provide that, for the purposes of the rule, the term ''associated person of a member or member organization'' shall have the same meaning as the terms ''person associated with a member'' or ''associated person of a member'' as defined in Article I (rr) of the FINRA By-Laws.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with Section 6(b) of the Act,[14] in general, and further the objectives of Section 6(b)(5) of the Act,[15] in particular, in that they are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule changes also support the principles of Section 11A(a)(1)[16] of the Act in that they seek to ensure the economically efficient execution of securities transactions and fair competition among brokers and dealers and among exchange markets.

The Exchange believes that the proposed rule changes support the objectives of the Act by providing greater harmonization between NYSE Rules and FINRA Rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for Dual Members. To the extent the Exchange has proposed changes that differ from the FINRA version of the Rules, such changes are technical in nature and do not change the substance of the proposed NYSE Rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[17] and Rule 19b–4(f)(6) thereunder.[18] 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, if consistent with the protection of investors and public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[19] and Rule 19b–4(f)(6) thereunder.[20]

A proposed rule change filed under 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[21] 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 set forth in Rule 19b–4(f)(6)(iii) under the Act[22] in order for the rule to become operative upon filing. The Commission notes that the operative date of FINRA 2150 becomes operative on December 14, 2009.[23] The Commission believes that the earlier operative date is consistent with the protection of investors and the public interest because the proposed rule change permits the Exchange to implement the rule without further delay and will prevent any potential regulatory gaps between the FINRA and NYSE Rules.[24]

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–2009–123 on the subject line.

[11] 15 U.S.C. 80b–1, *et seq.*

[12] *See* Securities Exchange Act Release No. 60701 (September 21, 2009), 74 FR 49425 (September 28, 2009).

[13] NYSE Amex has submitted a companion rule filing amending its rules in accordance with FINRA's rule changes. *See* SR–NYSE–Amex–2009–88.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78k–1(a)(1).

[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 17 CFR 240.19b–4(f)(6).

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization 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 Commission notes that NYSE has satisfied the five-day pre-filing notice requirement.

[22] 17 CFR 240.19b–4(f)(6)(iii).

[23] *See* FINRA Regulatory Notice 09–60 (October 15, 2009).

[24] 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. 15 U.S.C. 78c(f).

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–2009–123. 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 NYSE. 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–2009–123 and should be submitted on or before January 11, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–30242 Filed 12–18–09; 8:45 am]

BILLING CODE 8011–01–P

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61163; File No. SR–NYSEArca–2009–103]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Accelerated Approval of a Proposed Rule Change Regarding Listing and Trading of RP Short Duration ETF

December 14, 2009.

On November 6, 2009, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the RP Short Duration ETF (''Fund''). The proposed rule change was published for comment in the **Federal Register** on November 24, 2009.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change on an accelerated basis.

I. Description of the Proposal

The Exchange proposes to list and trade the Shares pursuant to NYSE Arca Equities Rule 8.600, which governs the listing of Managed Fund Shares. The Fund will be an actively managed exchange traded fund, which is a series of Grail Advisors ETF Trust (''Trust'').[4] The investment objective of the Fund is current income with potential capital appreciation consistent with the preservation of capital. The Fund will invest, under normal circumstances, at least 80% of its net assets (plus the amount of any borrowings for investment purposes) in debt securities. These securities include short- and intermediate-term securities issued by the U.S. Government, its agencies and instrumentalities, or corporate bonds or notes that the ETF's sub-adviser believes are consistent with the ETF's investment objective. Under normal circumstances, the ETF invests at least 65% of its assets in investment grade obligations, including securities issued or guaranteed by the U.S. Government, its agencies and instrumentalities. The Fund will not invest in non-U.S. equity securities.[5]

The Shares will be subject to the initial and continued listing criteria applicable to Managed Fund Shares under NYSE Arca Equities Rule 8.600(d), and the Exchange represents that the Fund will comply with Rule 10A–3 under the Act,[6] as provided by NYSE Arca Equities Rule 5.3.

Additional information regarding the Fund, the Shares, the Fund's investment objectives, strategies, policies, and restrictions, risks, fees and expenses, creations and redemptions of Shares, availability of information, trading rules and halts, and surveillance procedures, among other things, can be found in the Registration Statement and in the Notice.[7]

II. Discussion and Commission's Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of Section 6 of the Act [8] and the rules and regulations thereunder applicable to a national securities exchange.[9] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[10] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, 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 Commission notes that the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600 to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[11] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers and investors of information with respect to quotations for and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 61021 (November 17, 2009), 74 FR 61383 (''Notice'').

[4] The Trust is registered with the Commission as an investment company. On October 7, 2009, the Trust filed with the Commission a Registration Statement on Form N–1A (File Nos. 333–148082 and 811–22154) (''Registration Statement'').

[5] Additional information regarding the Fund's investments can be found in the Notice and Registration Statement. *See supra* notes 3 and 4.

[6] 17 CFR 240.10A–3.

[7] *See supra* notes 3 and 4.

[8] 15 U.S.C. 78f.

[9] In approving this proposed rule change the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[10] 17 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78k–1(a)(1)(C)(iii).

transactions in securities. Quotation and last-sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line, and the Portfolio Indicative Value (''PIV'') will be disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors. In addition, the Trust will disclose on its Web site on each business day the identities and quantities of the portfolio of securities and other assets (''Disclosed Portfolio'') held by the Fund that will form the basis for its calculation of the net asset value (''NAV''), which will be determined at the end of the business day. The Fund's Web site will also include additional quantitative information updated on a daily basis relating to prices and NAV. Information regarding the market price and volume of the Shares will be continually available on a real-time basis throughout the day via electronic services, and the previous day's closing price and trading volume information for the Shares will be published daily in the financial sections of newspapers.

The Commission further believes that the proposal is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange will obtain a representation from the Fund that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.[12] Additionally, if it becomes aware that the NAV or the Disclosed Portfolio is not disseminated daily to all market participants at the same time, the Exchange will halt trading in the Shares until such information is available to all market participants.[13] Further, if the PIV is not being disseminated as required, the Exchange may halt trading during the day in which the disruption occurs; if the interruption persists past the day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.[14] The Exchange represents that the Fund's investment manager has implemented a ''fire wall'' between it and its broker-dealer affiliate with respect to access to information concerning the composition and/or changes to the Fund's portfolio.[15] Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the portfolio.[16]

The Exchange has deemed the Shares to be equity securities subject to the Exchange's rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600.

(2) The Exchange's surveillance procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable Federal securities laws.

(3) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The procedures for purchases and redemptions of Shares and that Shares are not individually redeemable; (b) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (d) how information regarding the PIV is disseminated; (e) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(4) The Funds will be in compliance with Rule 10A–3 under the Act.

(5) The Funds will not invest in non-U.S. equity securities.

This approval order is based on the Exchange's representations.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[17] for approving the proposal prior to the thirtieth day after the date of publication of the Notice in the **Federal Register**. The Commission notes that it has approved the listing and trading on the Exchange of shares of other actively managed exchange-traded funds based on a portfolio of securities,[18] including other series of the Grail Advisors ETF Trust,[19] and that the proposed rule change does not raise any novel regulatory issues. The Commission also notes that it has received no comments regarding the proposed rule change, and believes that accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for Managed Fund Shares.

III. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (SR–NYSEArca–2009–103) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–30243 Filed 12–18–09; 8:45 am]

BILLING CODE 8011–01–P

[12] *See* NYSE Arca Equities Rule 8.600(d)(1)(B).

[13] *See* NYSE Arca Equities Rule 8.600(d)(2)(D).

[14] *Id.* Trading in the Shares may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities comprising the Disclosed Portfolio and/or the financial instruments of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

[15] The Exchange also represents that neither RiverPark Advisors, LLC nor Cohanzick Management, LLC, the Fund's sub-advisers, have broker-dealer affiliates, and that any additional Fund sub-advisers that are affiliated with a broker-dealer will be required to implement a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the portfolio.

[16] *See* NYSE Arca Equities Rule 8.600(d)(2)(B)(ii).

[17] 15 U.S.C. 78s(b)(2).

[18] *See, e.g.,* Securities Exchange Act Release No. 60981 (November 10, 2009), 74 FR 59594 (November 18, 2009) (SR–NYSEArca–2009–79) (approving the listing of five fixed income funds of the PIMCO ETF Trust).

[19] *See, e.g.,* Securities Exchange Act Release No. 60717 (September 24, 2009), 74 FR 50853 (October 1, 2009) (NYSEArca–2009–74) (approving the listing and trading of shares of RP Growth ETF, RP Focused Large Cap Growth ETF, RP Technology ETF and the RP Financials ETF).

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with

Public Law (Pub. L.) 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions to and extensions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, e-mail, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and the SSA Director for Reports Clearance to the addresses or fax numbers shown below.

OMB

Office of Management and Budget, *Attn:* Desk Officer for SSA; *Fax:* 202–395–6974; *E-mail address: OIRA_Submion@omb.eop.gov*.

SSA

Social Security Administration, DCBFM, *Attn:* Director, Center for Reports Clearance, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235; *Fax:* 410–965–0454; *E-mail address: OPLM.RCO@ssa.gov*.

I. The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than February 19, 2010. Individuals can obtain copies of the collection instrument by calling the SSA Director for Reports Clearance at 410–965–0454 or by writing to the above e-mail address.

1. *Claimant Statement about Loan of Food or Shelter; Statement about Food or Shelter Provided to Another—20 CFR 416.1130–416.1148—0960–0529.* SSA uses Forms SSA–5062 and SSA–L5063 to obtain statements about food and/or shelter provided to SSI claimants or recipients. SSA uses this information to determine whether food and/or shelter are bona fide loans or should be counted as income for SSI purposes. This determination can affect a claimant's or recipient's eligibility for SSI and the amount of SSI payments. The respondents are claimants and recipients of SSI payments and individuals who provide food or shelter loans to them.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 131,080.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 21,846 hours.

2. *Direct Deposit Sign-Up Form (Country)—31 CFR 210—0960–0686.* SSA's International Direct Deposit Program allows beneficiaries living abroad to have their payments directly deposited to an account at a financial institution outside the United States. SSA uses Form SSA–1199 to obtain the direct deposit information for an account at a foreign financial institution. Routing account number information varies slightly for each foreign country, so we use a variation of the Department of Treasury's Form SF–1199A for each country. The respondents are Social Security beneficiaries residing abroad who wish to have their benefit payments directly deposited to a foreign financial institution.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 5,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 417 hours.

3. *Temporary Extension of Attorney Fee Payment System to Title XVI; 5-Year Demonstration Project Extending Fee Withholding and Payment Procedures to Eligible Non-Attorney Representatives; Definition of Past-Due Benefits; and Assessment for Fee Payment Services—20 CFR 404.1717, 404.1730(c)(1), 404.1730(c)(2)(i), 404.1730(c)(2)(ii), 416.1517, 416.1528(a), 416.1530(c)(1), 416.1530(c)(2)(i), 416.1530(c)(2)(i)—OMB No. 0960–0745.* Section 302 of the Social Security Protection Act of 2004 (SSPA), Public Law 108–203, amended section 1631(d)(2) of the Social Security Act to temporarily extend the Title II attorney fee withholding and direct payment process to Title XVI. Section 303 of the SSPA directs SSA to conduct a 5-year nationwide demonstration project to allow qualifying non-attorneys the option of fee withholding and direct payment of fees under both Titles II and XVI. SSA uses the information to administer fee withholding and direct payment to certain non-attorney representatives. Respondents are non-attorneys who are eligible to receive direct payment of fees for representing individuals before SSA.

Type of Request: Extension of an OMB-approved information collection.

Regulation section	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
404.1730(c)(2)(i)	841	10/year	30	4,205
404.1730(c)(2)(ii)	600	1	3	30
416.1530(c)(2)(i)	561	10/year	30	2,805
416.1530(c)(2)(ii)	400	1	3	20
Totals	2,402			7,060

II. SSA has submitted the information collections listed below to OMB for clearance. Your comments on the information collections would be most useful if OMB and SSA receive them within 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than January 20, 2010. You can obtain a copy of the OMB clearance packages by calling the SSA Director for Reports Clearance at 410–965–0454 or by writing to the above e-mail address.

1. *Authorization for the Social Security Administration to Obtain Account Records from a Financial Institution and Request for Records—20 CFR 416.200, 416.203—0960–0293.* Individuals must authorize financial institutions to disclose records to SSA by signing an SSA–4641–U2. Financial institutions use the form to provide financial information to SSA. We need the information if an individual's records are incomplete, unavailable, or appear altered. SSA must verify the existence, ownership, and value of accounts of SSI applicants, recipients, and deemors. We use the financial institution's report, in part, to determine whether the respondent meets SSI resource eligibility requirements. The respondents are SSI applicants',

recipients', or deemors' financial institutions.

Type of Request: Revision of an OMB-approved information collection.

Modality	Number of responses	Frequency of response	Average urden per response (minutes)	Total annual burden (hours)
SSA–4641–U2	320,000	1	6	32,000
e4641	180,000	1	6	18,000
Total	500,000			50,000

This is a correction notice: SSA is updating burden information for this collection initially published at 74 FR 39728 on August 7, 2009.

2. *The Ticket to Work and Self-Sufficiency Program—20 CFR 411—0960–0644.* Through its Ticket to Work Program Manager, SSA uses the information to operate and manage the Ticket to Work Program. SSA uses the Ticket to Work Program to assign Social Security Disability Insurance (SSDI) or SSI recipients to a service provider and follows their progress through the various stages of ticket program participation, such as progress reviews or changes in ticket status. Most of the collections in this information collection request (ICR) require service providers to provide information to SSA for such tasks as selecting a payment system or requesting payments for helping the beneficiary achieve certain work goals. Most of the categories of information in this ICR are necessary for SSA to: (1) Comply with the Ticket to Work legislation; and (2) provide proper oversight of the program. SSA collects this information through several modalities, including forms, electronic exchanges, and written documentation. The respondents are SSDI beneficiaries and blind or disabled SSI recipients and their employment networks, or State vocational rehabilitation agencies assigned under the auspices of the Ticket to Work Program.

Correction Notice: Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
(a) 20 CFR 411.140(d)(3); 411.150(b)(3); 411.325(a); SSA–1365	12,330	1	60	12,330
(a) 20 CFR 411.140(d)(3); 411.150(b)(3); 411.325(a); SSA–1370	1,370	1	60	1,370
(a) 20 CFR 411.166; 411.170(b); Electronic Data Sharing	35,584	1	5	2,965
(b) 20 CFR 411.145; 411.325; Requesting Ticket Un-assignments	2,532	1	15	633
(b) 20 CFR 411.535(a)(1)(iii); VR Case Closures	8,505	1	5	709
(c) 20 CFR 411.192(b)&(c); Request to Place Ticket in Inactive Status	1,000	1	30	500
(c) 20 CFR 411.200(b); SSA–1375; SSA–L1373; SSA–L1374; SSA–L1377; Certification of Work and Educational Progress	127,000	1	15	31,750
(c) 20 CFR 411.210(b); Ticket-Use Status after Not Making Timely Progress	3,145	1	30	1,573
(d) 20 CFR 411.365; 411.505; 411.515; Selecting a Payment System	118	1	30	59
(e) 20 CFR 411.325(d); 411.415; Reporting Referral Agreement	48	1	480	384
(f) 20 CFR 411.575; SSA–1391; SSA–1389; SSA–1393; SSA–1399; SSA–1396; SSA–1392; SSA–1398; Requesting EN Payments	12,420	1	30	6,210
(f) 20 CFR 411.575; SSA–1392; EN Payment Status Report Request	100	1	5	8
(f) 20 CFR 411.560; Split Payment Situations	100	1	20	33
(g) 20 CFR 411.325(f); Periodic Outcomes Reporting	2,470	1	120	4,940
(h) 20 CFR 411.435; 411.615; 411.625; Dispute Resolutions	2	1	120	4
(i) 20 CFR 411.320; SSA–1394; EN Contract Changes	202	1	10	34
Totals	206,926			63,502

This is a correction notice: SSA is updating burden information for this collection initially published at 74 FR 39728 on August 7, 2009.

3. *Non-Attorney Representative Demonstration Project Application—20 CFR 404.1745–404.1799 and 20 CFR 416.1545–416.1599—0960–0699.* Section 303 of the SSPA provides for a 5-year demonstration project under which SSA extends the direct payment of approved fees to certain non-attorney claimant representatives. Under the SSPA, to be eligible for direct payment of fees, a non-attorney representative must fulfill the following statutory requirements: (1) Possess a bachelors degree or have equivalent qualifications from training and work experience; (2) pass an examination that tests knowledge of the relevant provisions of the Social Security Act; (3) secure professional liability insurance or equivalent insurance; (4) pass a criminal background check; and (5) demonstrate completion of relevant continuing education courses. Through the services of a private contractor, SSA must collect the requested information to determine if a non-attorney representative has met the statutory requirements to be eligible for direct payment of fees for his or her claimant representation services. SSA needs this information to comply with the legislation. The respondents are non-attorney representatives who apply for direct payment of fees.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 700.

Modality of completion	Number of respondents	Frequency of response	Response time (minutes)	Total annual burden (hours)
New Applicants (paper submission)	20	1	60	20
New Applicants (electronic submission)	180	1	60	180
Existing Applicants CE Submission	500	1	30	250
Totals	700			450

This is a correction notice: SSA is updating burden information for this collection initially published at 74 FR 48795 on September 24, 2009.

Dated: December 15, 2009.

Elizabeth A. Davidson,

Director, Center for Reports Clearance, Social Security Administration.

[FR Doc. E9–30227 Filed 12–18–09; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Applications of Caribbean Sun Airlines, Inc. for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 2009–12–8). Docket DOT–OST–2001–11164 and DOT–OST–2001–11198.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not (1) issue an order finding Caribbean Sun Airlines, Inc., fit, willing, and able, and to resume foreign scheduled air transportation of persons, property and mail, using one large aircraft.

DATES: Persons wishing to file objections should do so no later than December 29, 2009.

ADDRESSES: Objections and answers to objections should be filed in Dockets DOT–OST–2001–11164 and DOT–OST–2001–11198 and addressed to U.S. Department of Transportation, Docket Operations, (M–30, Room W12–140), 1200 New Jersey Avenue, SE., West Building Ground Floor, Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Catherine J. O'Toole, Air Carrier Fitness Division (X–56, Room W86–489), U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366–9721.

Dated: December 14, 2009.

Susan Kurland,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. E9–30229 Filed 12–18–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending December 5, 2009

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2009–0319.

Date Filed: December 2, 2009.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 23, 2009.

Description:

Application of Aviation Matters, Inc. d/b/a Pacificflier requesting an exemption and a foreign air carrier permit to provide non-scheduled foreign air transportation of persons, property and mail from any point or points behind the Republic of Palau and Brisbane, Australia, via the Republic of Palau and Brisbane, Australia, via intermediate points to Guam and beyond.

Docket Number: DOT–OST–1997–2155.

Date Filed: December 2, 2009.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 23, 2009.

Description:

Application of Arctic Transportation Systems, Inc. requesting reissuance of its certificate of Public convenience and necessity in the name of Ryan Air, Inc.

Renee V. Wright,

Program Manager, Docket Operations,

Federal Register Liaison.

[FR Doc. E9–30231 Filed 12–18–09; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, revision, clarification, and upgrading of terminology and procedures.

DATES: The meeting will be held Tuesday, January 12, and Wednesday January 13, 2010 from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Rancho Bernardo Inn, 17550 Bernardo Oaks Dr., San Diego, CA 92128.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Jehlen, ATPAC Executive Director, 800 Independence Avenue, SW., Washington, DC 20591. Telephone (202) 493–4527.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App.2), notice is hereby given of a meeting of the ATPAC to be held Tuesday, January 12, and Wednesday, January 13, 2010, from 8:30 a.m. to 5 p.m.

The agenda for this meeting will cover a continuation of the ATPAC's review of present air traffic control procedures

and practices for standardization, revision, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of Minutes;
2. Submission and Discussion of Areas of Concern;
3. Discussion of Potential Safety Items;
4. Report from Executive Director;
5. Items of Interest; and
6. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statement should notify Mr. Richard Jehlen no later than January 1, 2009. Any member of the public may present a written statement to the ATPAC at any time at the address given above.

Issued in Washington, DC, on December 7, 2009.

Richard Jehlen,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. E9–29602 Filed 12–18–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In November 2009, there were two applications approved. This notice also includes information on one application, approved in October 2009, inadvertently left off the October 2009 notice. Additionally, five approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Port of Oakland, Oakland, California.

Application Number: 09–14–C–00–OAK.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $293,219,000.

Earliest Charge Effective Date: March 1, 2011.

Estimated Charge Expiration Date: April 1, 2021.

Class of Air Carriers Not Required To Collect PFC's: Nonscheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Metropolitan Oakland International Airport.

Brief Description of Projects Approved for Collection and Use at a $4.50 PFC Level:

Terminal 1 rehabilitation and retrofit program.
Passenger boarding bridges.
Runway 11/29 light collar replacement.
East apron improvements, phases I and II.
East apron improvements, phase III.
Runway safety area improvements, phases I and II.
Rehabilitate taxiway B.
Rehabilitate taxiway W.
Security enhancements at terminal 2.
Security enhancements for taxiway B overpass.
Lighting control to a new air traffic control tower.
Aircraft rescue and firefighting vehicles.
Closed circuit television program expansion—phases II and Ill.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level:

Americans with Disabilities Act access improvements.
Terminal 2 roof replacement.
Perimeter airfield dike seismic enhancement study.
Airport security enhancements—security assessment study.
Noise monitoring system upgrade.
PFC administrative costs.
Owner-controlled insurance for terminal 2 improvements.

Decision Date: October 23, 2009.

FOR FURTHER INFORMATION CONTACT: Gretchen Kelly, San Francisco Airports District Office, (650) 876–2778, extension 623.

Public Agency: Rhode Island Airport Corporation, Warwick, Rhode Island.

Application Number: 09–06–C–00–PVD.

Application Type: Impose and use a PFC. *PFC Level:* $4.50.

Total PFC Revenue Approved in this Decision: $15,832,980.

Earliest Charge Effective Date: May 1, 2015.

Estimated Charge Expiration Date: November 1, 2016.

Class of Air Carriers Not Required To Collect PFC's:

Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than I percent of the total annual enplanements at T. F. Green Airport.

Brief Description of Projects Approved for Collection and Use at a $4.50 PFC Level:

Acquire land for noise mitigation.
Extend, mark and light taxiway M.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level:

Final environmental impact statement.
Taxiway N rehabilitation.
PFC implementation and administration assistance.

Decision Date: November 13, 2009.

For Further Information Contact: Priscilla Scoff, New England Region Airports Division, (781) 238–7614.

Public Agency: Grand Forks Regional Airport Authority, Grand Forks, North Dakota.

Application Number: 10–08–C–00–GFK.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $2,700,456.

Earliest Charge Effective Date: February 1, 2010.

Estimated Charge Expiration Date: August 1, 2017.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Grand Forks International Airport.

Brief Description of Project Partially Approved for Collection and Use: Construction of new passenger terminal building and air carrier apron.

Determination: Partially approved for collection and use. The FAA determination that portions of the project were not PFC-eligible.

Decision Date: November 19, 2009.

For Further Information Contact: Thomas Schauer, Bismarck Airports District Office, (701) 323–7383.

AMENDMENT TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
98–05–C–04–MEI, Meridian, MS	10/30/09	$234,082	$231,037	09/01/02	09/01/02
99–06–C–03–MEI, Meridian, MS	10/30/09	148,000	105,760	05/01/04	05/01/04
06–11–C–01–EYW, Key West, FL	11/05/09	48,440,445	11,882,511	12/01/37	08/01/15
06–11–C–02–EYW, Key West, FL	11/10/09	11,882,51	11,929,058	11/01/16	09/01/15
06–03–C–01–ABQ, Albuquerque, NM	11/10/09	66,066,726	68,885,899	07/01/15	07/01/16

Issued in Washington, DC, on December 11, 2009.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. E9–30206 Filed 12–18–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2009–57]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before Monday, December 28, 2009.

ADDRESSES: You may send comments identified by Docket Number FAA–2009–1127 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for 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 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Laverne Brunache (202) 267–3133 or Tyneka Thomas (202) 267–7626, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC on December 15, 2009.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2009–1127.

Petitioner: Delta Air Lines, Inc.

Section of 14 CFR Affected: 14 CFR 121.291(b)(1).

Description of Relief Sought: The petitioner is requesting relief from the requirements of 14 CFR 121.291(b)(1), which requires a certificate holder to conduct a partial demonstration of emergency evacuation procedures upon initial introduction of a type and model of airplane into passenger-carrying operations. The petitioner seeks this relief to add the airplanes previously operated by Northwest Airlines, Inc. to its operating certificate prior to conducting the evacuation demonstrations.

[FR Doc. E9–30198 Filed 12–18–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief from the requirements of Title 49 CFR part 236, as detailed below.

Union Pacific Railroad Company

[Docket Number FRA–2009–0116]

The Union Pacific Railroad seeks relief from the requirements of the Rules, Standards and Instructions, Title 49 CFR Part 236, Section 236.377 Approach Locking, 236.378 Time Locking, 236.379 Route Locking, 236.380 Indication Locking and 236.381 Traffic Locking, regarding performance of locking test at intervals not to exceed 2 years, on processor-based systems to the extent that only the following be required every 4 years after initial testing or program change:

—Verification of the Cyclic Redundancy Check/Check Sum/Universal Control Number of the existing location specific application logic to the previously tested version (baseline testing).

—Testing the appropriate interconnection to signaling hardware and equipment outside of the processor (switch indication, track circuits and indications, searchlight

and color-light signal indications, approach locking (if external) to verify correct and intended inputs and outputs from the processor are maintained.

Alternative locking test descriptions and procedures would be documented in Carriers Signal Maintenance Standards.

Applicant's justification for relief: The 2-year testing interval at microprocessor controlled signal locations places an unnecessary burden on the carrier and provides no real safety benefit as the application program logic once installed does not change.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number FRA–2009–0116) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC, on December 16, 2009.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E9–30279 Filed 12–18–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice To Rescind Notice of Intent To Prepare an Environmental Impact Statement: Polk County, IA

AGENCY: Federal Highway Administration (FHWA), Iowa DOT, Polk County.

ACTION: Rescind Notice of Intent to prepare an environmental impact statement

SUMMARY: The FHWA, Iowa DOT and Polk County are issuing this notice to advise the public that the NOI to prepare an environmental impact statement (EIS) for improvements for a proposed roadway project in Polk County, Iowa.

FOR FURTHER INFORMATION CONTACT: Michael La Pietra, Environment and Realty Manager, FHWA Iowa Division Office, 105 Sixth Street, Ames, IA 50010, Phone 515–233–7302; or James P. Rost, Director, Office of Location and Environment, Iowa Department of Transportation, 800 Lincoln Way, Ames, IA 50010, Phone 515–239–1798.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document is available for free download from the Federal Bulletin Board, (FBB). The FBB is a free electronic bulletin board service of the Superintendent of Documents, U.S. Government Printing Office (GPO).

The FBB may be accessed in four ways: (1) Via telephone in dial-up mode or via the Internet through (2) telnet, (3) FTP, and (4) the World Wide Web.

For dial-in mode a user needs a personal computer, modem, telecommunications software package and telephone line. A hard disk is recommended for file transfers.

For Internet access a user needs Internet connectivity. Users can telnet or FTP to: *http://fedbbs.access.gpo.gov.* Users can access the FBB via the World Wide Web at *http://fedbbs.access.gpo.gov.*

User assistance for the FBB is available from 7 a.m. until 5 p.m., Eastern Time, Monday through Friday (except Federal holidays) by calling the GPO Office of Electronic Information Dissemination Services at 202–512–1530, toll-free at 888–293–6498; sending an e-mail to *gpoaccess@gpo.gov;* or sending a fax to 202–512–1262.

Access to this notice is also available to Internet users through the **Federal Register**'s home page at *http://www.nara.gov/fedreg.*

Background

The FHWA, in cooperation with the Iowa Department of Transportation (Iowa DOT) and Polk County had a NOI published in the **Federal Register** on May 5, 2006 (Volume 71, Number 87) to complete an environmental impact statement for roadway improvements in Polk County, Iowa. On June 1, 2009 a second NOI was published in the **Federal Register** (Volume 74, Number 103) modifying the EIS to a tiered document.

Due to issues pertaining to cost and scheduling of the project, the above mentioned notices will be rescinded, and a corridor study will be completed instead. Appropriate environmental documents will be completed in the future when and if the project proceeds.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

(**Authority:** 23 U.S.C. 315; 49 CFR 1.48).

Dated: December 14, 2009.

Lubin M. Quinones,

Division Administrator, FHWA, Iowa Division.

[FR Doc. E9–30223 Filed 12–18–09; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35332]

Grainbelt Corporation—Trackage Rights Exemption—BNSF Railway Company and Stillwater Central Railroad Company

Pursuant to written trackage rights agreements dated October 16, 2009 and November 1, 2009, respectively, BNSF Railway Company (BNSF) and Stillwater Central Railroad Company (SLWC), have each agreed to grant

supplemental trackage rights [1] to Grainbelt Corporation (GNBC), which together will allow GNBC to operate between Snyder and Altus, OK, with the right to provide limited local service at Long, OK.[2] Specifically, BNSF is granting overhead trackage rights, with limited local service rights, over 19.27 miles of trackage between its connection with SLWC at milepost 668.73, east of Long, and milepost 688.00 at Altus; SLWC is granting 4.73 miles of overhead trackage rights between milepost 664.0, at or near Snyder Yard, and milepost 668.73, at or near Long, to allow GNBC to reach connecting BNSF trackage.[3]

The transaction is scheduled to be consummated on or after January 1, 2010.

The supplemental trackage rights will allow GNBC and BNSF to shift much of their current interchange traffic from Snyder to Altus, allow GNBC to interchange traffic with its affiliate, Farmrail Corporation, at Altus, and allow GNBC limited access to a customer at Long.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* 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 will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by December 24, 2009 (at least 7 days before the exemption becomes effective).

Pursuant to the Consolidated Appropriations Act, 2008, Public Law 110–161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: Collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term ''solid waste'' is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35332 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 Eric M. Hocky, One Commerce Square, 2005 Market Street, Suite 1910, Philadelphia, PA 19103.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: December 17, 2009.

By the Board,

Rachel D. Campbell,

Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9–30403 Filed 12–18–09; 8:45 am]

BILLING CODE 4915–01–P

[1] GNBC already holds overhead trackage rights granted by BNSF's predecessor between Snyder Yard (milepost 664.00) and Quanah, TX (milepost 723.30), pursuant to which GNBC interchanges at Quanah. BNSF subsequently sold a portion of the subject trackage to SLWC. These original rights are not affected by the subject supplemental rights.

[2] Redacted versions of the trackage rights agreements between GNBC/BNSF and GNBC/SLWC were filed with the notice of exemption. The full versions of the agreements, as required by 49 CFR 1180.6(a)(7)(ii), were concurrently filed under seal along with a motion for protective order. The motion is being addressed in a separate decision.

[3] GNBC points out that because the rights being granted here involve ''local'' trackage rights that will remain in effect for more than 1 year, these rights do not qualify for the Board's class exemption for temporary trackage rights at 49 CFR 1180.2(d)(8). *See Railroad Consolidation Procedures,* 6 S.T.B. 910 (2003). GNBC has also concurrently filed a petition for partial revocation of this exemption in STB Finance Docket No. 35332 (Sub-No. 1), *Grainbelt Corporation—Trackage Rights Exemption—BNSF Railway Company and Stillwater Central Railroad Company,* wherein GNBC requests that the Board permit the proposed local trackage rights arrangements described in the present proceeding to expire 10 years from the execution dates, as provided in the parties' agreements. The petition will be addressed by the Board in a separate decision.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; Indianapolis International Airport, Indianapolis, IN

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of the airport from aeronautical use to non-aeronautical use and to authorize the release of 339.956 acres of vacant airport property for highway development and 175.492 acres of vacant airport property for highway easements for an exchange of property between the Indianapolis Airport Authority and the Indiana Department of Transportation. The land consists of portions of 64 original airport acquired parcels. These parcels were acquired under grants: 6–18–0038–10, 6–18–0038–14, 3–18–0038–23, 3–18–0038–24, 3–18–0038–32, 3–18–0038–37, 3–18–0038–38, 3–18–0038–39, 3–18–0038–45, 3–18–0038–47, 3–18–0038–51, 3–18–0038–65, 3–18–0038–83, 3–18–0038–88, 3–18–0038–92, 3–18–0038–94 or without Federal participation. There are no impacts to the airport by allowing the Indianapolis Airport Authority to dispose of the property. The land is not needed for aeronautical use. Approval does not constitute a commitment by the FAA to financially assist in the sale or lease of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before January 20, 2010.

ADDRESSES: Written comments on the Sponsor's request must be delivered or mailed to: Melanie Myers, Program Manager, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, IL 60018.

FOR FURTHER INFORMATION CONTACT: Melanie Myers, Program Manager, Federal Aviation Administration, Great Lakes Region, Chicago Airports District Office, CHI–ADO 609, 2300 East Devon Avenue, Des Plaines, IL 60018. Telephone Number (847–294–7525)/ FAX Number (847–294–7046). Documents reflecting this FAA action may be reviewed at this same location or at Indianapolis International Airport, Indianapolis, Indiana.

SUPPLEMENTARY INFORMATION:

Parcel 7: Westbound I–70 and Six Points Road Interchange

A part of the Northwest Quarter of Section 4, Township 14 North, Range 2 East, Marion County, Indiana and a part of the Northeast Quarter of Section 5, Township 14 North, Range 2 East, Hendricks County, Indiana, and being that part of the grantor's land lying within the right of way lines as depicted on the attached Right of Way Parcel Plat, marked Exhibit ''B'', described as follows: Commencing at the southwest corner of the Northeast Quarter of said Section 5 designated as point ''819'' on said plat; Thence North 89 degrees 38 minutes 14 seconds East 167.08 feet along the south line of said quarter section to a point on the northwestern boundary of I–70 designated as point ''992'' on said plat; thence North 47

degrees 42 minutes 06 seconds East 15.50 feet along said boundary to the point of beginning of this description, which point is on the east boundary of Six Points Road and is designated as point ''823'' on said plat: Thence South 84 degrees 28 minutes 42 seconds West 73.90 feet along said east boundary to point ''978'' on said plat; thence North 12 degrees 02 minutes 19 seconds West 60.71 feet along said east boundary to point ''307'' on said plat; thence North 55 degrees 20 minutes 56 seconds East 1.64 feet to point ''1100'' on said plat; thence North 56 degrees 26 minutes 00 seconds East 145.75 feet to point ''308'' on said plat; thence North 48 degrees 25 minutes 42 seconds East 167.96 feet to point ''309'' on said plat; thence North 40 degrees 29 minutes 30 seconds East 156.04 feet to point ''310'' on said plat; thence North 40 degrees 29 minutes 30 seconds East 155.38 feet to point ''311'' on said plat; thence North 33 degrees 19 minutes 47 seconds East 285.04 feet to point ''312'' on said plat; thence North 21 degrees 58 minutes 57 seconds East 138.68 feet to point ''313'' on said plat; thence North 14 degrees 40 minutes 34 seconds East 174.69 feet to point ''314'' on said plat; thence North 7 degrees 35 minutes 11 seconds East 192.20 feet to point ''315'' on said plat; thence North 2 degrees 08 minutes 00 seconds West 165.03 feet to point ''316'' on said plat; thence North 6 degrees 18 minutes 25 seconds West 352.70 feet to point ''317'' on said plat; thence North 12 degrees 47 minutes 39 seconds West 166.76 feet to point ''318'' on said plat; thence North 27 degrees 38 minutes 22 seconds West 191.25 feet to point ''319'' on said plat; thence North 25 degrees 50 minutes 34 seconds East 136.39 feet to point ''320'' on said plat; thence North 35 degrees 16 minutes 30 seconds West 137.75 feet to point ''321'' on said plat; thence North 86 degrees 26 minutes 23 seconds West 123.95 feet to point ''322'' on said plat; thence North 44 degrees 09 minutes 54 seconds West 25.11 feet to a point on a north line of said grantor's land designated as point ''998'' on said plat; thence South 89 degrees 50 minutes 29 seconds East 384.11 feet along said north line to point ''868'' on said plat; thence South 46 degrees 21 minutes 40 seconds East 22.25 feet to point ''195'' on said plat; thence North 87 degrees 34 minutes 12 seconds East 58.40 feet to point ''196'' on said plat; thence South 46 degrees 29 minutes 15 seconds East 305.03 feet to point ''197'' on said plat; thence South 52 degrees 36 minutes 24 seconds East 302.79 feet to point ''198'' on said plat; thence South 59 degrees 27 minutes 24 seconds East 121.91 feet to point ''247'' on said plat; thence South 74 degrees 10 minutes 51 seconds East 198.70 feet to point ''254'' on said plat; thence South 83 degrees 19 minutes 30 seconds East 426.66 feet to point ''259'' on said plat; thence South 78 degrees 09 minutes 02 seconds East 183.22 feet to point ''260'' on said plat; thence South 87 degrees 52 minutes 11 seconds East 165.02 feet to point ''261'' on said plat; thence North 77 degrees 55 minutes 43 seconds East 222.35 feet to point ''262'' on said plat; thence North 87 degrees 40 minutes 41 seconds East 175.25 feet to point ''263'' on said plat; thence North 63 degrees 05 minutes 41 seconds East 284.02 feet to point ''264'' on said plat; thence North 51 degrees 19 minutes 14 second East 463.22 feet to point ''265'' on said plat; thence North 50 degrees 33 minutes 26 seconds East 765.79 feet to a point on the southwestern boundary of Bridgeport Road designated as point ''903'' on said plat; thence South 24 degrees 27 minutes 15 seconds East 374.32 feet along the boundary of said Bridgeport Road to a point on the northwestern boundary of Frontage Road Number 5 as shown on the plans for Indiana State Highway Commission Project No. I–70–3(33)68R/W designated as point ''601'' on said plat; thence South 43 degrees 19 minutes 12 seconds West 116.29 feet along the boundary of said Frontage Road Number 5 to point ''600'' on said plat; thence South 60 degrees 50 minutes 09 seconds West 1,729.33 feet along said boundary to a point on the east line of the Northeast Quarter of said Section 5 designated as point ''881'' on said plat; thence South 0 degrees 02 minutes 24 seconds West 57.28 feet along said east line to a point on the northwestern boundary of I–70 designated as point ''1010'' on said plat; thence South 60 degrees 50 minutes 09 seconds West 46.59 feet along the boundary of said I–70 to point ''621'' on said plat; thence South 76 degrees 39 minutes 18 seconds West 311.81 feet along said boundary to point ''856'' on said plat; thence South 37 degrees 48 minutes 37 seconds West 217.31 feet along said boundary to point ''855'' on said plat; thence South 60 degrees 50 minutes 09 seconds West 750.00 feet along said boundary to point ''830'' on said plat; thence South 68 degrees 25 minutes 50 seconds West 151.33 feet along said boundary to point ''829'' on said plat; thence South 60 degrees 50 minutes 09 seconds West 400.00 feet along said boundary to point ''828'' on said plat; thence South 65 degrees 35 minutes 58 seconds West 120.42 feet along said boundary to point ''847'' on said plat; thence South 66 degrees 01 minute 49 seconds West 55.23 feet along said boundary to point ''825'' on said plat; thence South 60 degrees 50 minutes 09 seconds West 775.00 feet along said boundary to the point of beginning and containing 11.241 acres, more or less, in said Section 4, and containing 49.818 acres, more or less, in said Section 5; and containing in all 61.059 acres, more or less.

Together with the permanent extinguishment of all rights and easements of ingress and egress to, from, and across the highway facilities (to be known as I–70 and Six Points Road and as Project ST–70–3(Q)), to and from the grantor's remaining lands where they abut the 61.059-acre parcel described above, and along the line described as follows: Beginning at the Northwestern end of the 25.11-foot course described above, which point of beginning is on a north line of the grantor's land and is designated as point ''998'' on said plat; thence North 89 degrees 50 minutes 29 seconds West 45.49 feet to point ''994'' on said plat. This restriction is a covenant running with the land and shall be binding on the grantor and on all successors in title to the said abutting lands.

Parcel 7A: Eastbound I–70 and Six Points Road Interchange

A part of the Northwest Quarter of Section 4, Township 14 North, Range 2 East, Marion County Indiana, and a part of the Northeast Quarter and a part of the Southeast Quarter of Section 5, Township 14 North, Range 2 East, Hendricks County, Indiana, and being that part of the grantor's land lying within the right of way lines as depicted on the attached Right of Way Parcel Plat, marked Exhibit ''B'', described as follows: Beginning at the northeast corner of the Southeast Quarter of said Section 5 designated as point ''827'' on said plat; thence South 0 degrees 07 minutes 44 seconds East 871.64 feet along the east line of said quarter section to point ''849'' on said plat; thence North 29 degrees 30 minutes 57 seconds West 169.47 feet to point ''343'' on said plat; thence North 49 degrees 12 minutes 52 seconds West 291.68 feet to point ''342'' on said plat; thence North 64 degrees 07 minutes 38 seconds West 324.58 feet to point ''341'' on said plat; thence North 71 degrees 05 minutes 41 seconds West 528.26 feet to point ''340'' on said plat; thence North 69 degrees 25 minutes 46 seconds West 239.82 feet to point ''339'' on said plat; thence North 73 degrees 19 minutes 18 seconds West 96.18 feet to point ''338'' on said plat; thence North 84 degrees 35 minutes 13 seconds West 214.97 feet to point ''337'' on said plat; thence South 69 degrees 38 minutes 00 seconds West 255.00 feet to point ''335'' on said plat; thence South

58 degrees 54 minutes 58 seconds West 179.10 feet to point ''334'' on said plat; thence South 85 degrees 15 minutes 36 seconds West 239.43 feet to a point on the eastern boundary of Six Points Road designated as point ''332'' on said plat; thence North 4 degrees 38 minutes 50 seconds East 49.35 feet along the boundary of said Six Points Road to a point on the southeastern boundary of I–70 designated as point ''835'' on said plat; thence North 60 degrees 50 minutes 09 seconds East 385.00 feet along the boundary of said I–70 to point ''836'' on said plat; thence North 63 degrees 41 minutes 54 seconds East 400.50 feet along said boundary to point ''837'' on said plat; thence North 55 degrees 07 minutes 31 seconds East 201.00 feet along said boundary to point ''838'' on said plat; thence North 60 degrees 50 minutes 09 seconds East 250.00 feet along said boundary to point ''839'' on said plat; thence North 72 degrees 08 minutes 45 seconds East 101.98 feet along said boundary to point ''840'' on said plat; thence North 60 degrees 50 minutes 09 seconds East 250.00 feet along said boundary to point ''841'' on said plat; thence North 44 degrees 08 minutes 12 seconds East 156.60 feet along said boundary to point ''842'' on said plat; thence North 60 degrees 50 minutes 09 seconds East 750.00 feet along said boundary to point ''843'' on said plat; thence North 80 degrees 07 minutes 33 seconds East 105.95 feet along said boundary to point ''844'' on said plat; thence North 60 degrees 50 minutes 09 seconds East 300.00 feet along said boundary to point ''845'' on said plat; thence North 38 degrees 07 minutes 07 seconds East 90.63 feet along said boundary to point ''846'' on said plat; thence North 60 degrees 50 minutes 09 seconds East 2,020.28 feet along said boundary to a point on the northwestern boundary of Stanley Road designated as point ''685'' on said plat; thence South 28 degrees 14 minutes 37 seconds East 122.51 feet along the boundary of said Stanley Road to point ''859'' on said plat; thence South 2 degrees 42 minutes 16 seconds East 114.86 feet along said boundary to point ''860'' on said plat; thence North 86 degrees 04 minutes 26 seconds East 54.34 feet along said boundary to point ''861'' on said plat; thence South 28 degrees 14 minutes 37 seconds East 172.81 feet along said boundary to point ''686'' on said plat; thence along said boundary Southerly 113.52 feet along an arc to the right having a radius of 1,100.00 feet and subtended by a long chord having a bearing of South 11 degrees 16 minutes 35 seconds East and a length of 113.47 feet to point ''429'' on said plat; thence South 60 degrees 32 minutes 39 seconds West 733.37 feet to point ''418'' on said plat; thence South 29 degrees 40 minutes 52 seconds West 142.01 feet to point ''417'' on said plat; thence South 51 degrees 28 minutes 53 seconds West 59.41 feet to point ''416'' on said plat; thence South 44 degrees 21 minutes 59 seconds West 179.23 feet to point ''415'' on said plat; thence South 60 degrees 01 minute 08 seconds West 97.05 feet to point ''414'' on said plat; thence South 48 degrees 04 minutes 20 seconds West 79.25 feet to point ''413'' on said plat; thence South 34 degrees 14 minutes 47 seconds West 149.97 feet to point ''412'' on said plat; thence South 46 degrees 03 minutes 50 seconds West 180.06 feet to point ''411'' on said plat; thence South 39 degrees 48 minutes 46 seconds West 151.79 feet to point ''410'' on said plat; thence South 43 degrees 49 minutes 14 seconds West 248.85 feet to point ''409'' on said plat; thence South 36 degrees 59 minutes 46 seconds West 202.18 feet to point ''408'' on said plat; thence South 20 degrees 00 minutes 28 seconds West 132.22 feet to a point on the south line of the Northwest Quarter of said Section 4 designated as point ''851'' on said plat; thence South 87 degrees 29 minutes 14 seconds West 369.91 feet along said south line to the point of beginning and containing 38.420 acres, more or less, in Section 4, and containing 37.476 acres, more or less, in said Section 5; and containing in all of 75.896 acres, more or less.

Together with the permanent extinguishment of all rights and easements of ingress and egress to, from, and across the highway facilities (to be known as I–70 and Six Points Road and as Project ST–70–3(Q)), to and from the grantor's remaining lands where they abut the 75.896-acre parcel described above, and along the 49.35-foot course described above. This restriction is a covenant running with the land and shall be binding on the grantor and on all successors in title to the said abutting lands.

Parcel 7B: Six Points Road, North of I–70

A part of the Northeast Quarter of Section 5, Township 14 North, Range 2 East, and a part of the Southeast Quarter of Section 32, Township 15 North, Range 2 East, all in Hendricks County, Indiana, and being that part of the grantor's land lying within the right of way lines as depicted on the attached Right of Way Parcel Plat, marked Exhibit ''B'', described as follows: Beginning at the northwest corner of the Southeast Quarter of said Section 32 designated as point ''817'' on said plat; thence North 89 degrees 39 minutes 12 seconds East 212.67 feet along the north line of said quarter section to point ''1012'' on said plat; thence South 0 degrees 20 minutes 48 seconds East 25.00 feet to a point on the south boundary of Stafford Road designated as point ''1011'' on said plat; thence South 42 degrees 45 minutes 23 seconds West 73.65 feet to point ''186'' on said plat; thence South 0 degrees 02 minutes 33 seconds West 1,000.00 feet to point ''187'' on said plat; thence South 3 degrees 23 minutes 28 seconds East 500.90 feet to point ''188'' on said plat; thence South 0 degrees 25 minutes 17 seconds East 475.42 feet to point ''189'' on said plat; thence South 15 degrees 25 minutes 58 seconds East 275.75 feet to point ''190'' on said plat; thence South 25 degrees 27 minutes 04 seconds East 275.75 feet to point ''191'' on said plat; thence South 44 degrees 44 minutes 59 seconds East 114.29 feet to a point on the south line of said quarter section designated as point ''863'' on said plat; thence South 89 degrees 55 minutes 28 seconds West 200.44 feet along said south line to a corner of said grantor's land designated as point ''995'' on said plat; thence South 0 degrees 39 minutes 06 seconds West 242.52 feet along a line of said grantor's land to a corner of said grantor's land designated as point ''996'' on said plat; thence South 89 degrees 55 minutes 28 seconds West 4.78 feet along a line of said grantor's land to point ''997'' on said plat; thence North 32 degrees 02 minutes 47 seconds West 211.00 feet to point ''179'' on said plat; thence North 25 degrees 57 minutes 04 seconds West 327.08 feet to point ''180'' on said plat; thence North 4 degrees 54 minutes 44 seconds West 153.47 feet to a point on the west line of said quarter section designated as point ''1000'' on said plat; thence North 0 degrees 09 minutes 52 seconds East 2,265.06 feet along said west line to the point of beginning and containing 0.450 acres, more or less, in said Section 5, and containing 12.150 acres, more or less, in said Section 32; and containing in all 12.600 acres, more or less.

Together with the permanent extinguishment of all rights and easements of ingress and egress to, from, and across the highway facilities (to be known as I–70 and Six Points Road and as Project ST–70–3(Q)), to and from the grantor's remaining lands where they abut the 12.600-acre parcel described above. This restriction is a covenant running with the land and shall be binding on the grantor and on all successors in title to the said abutting lands.

Parcel 7C: Six Points Road, South of I–70

A part of the Southwest Quarter of Section 4, Township 14 North, Range 2 East, Marion County, Indiana, and being that part of the grantor's land lying within the right of way lines as depicted on the attached Right of Way Parcel Plat, marked Exhibit ''B'', described as follows: Beginning at a point on the east line of said quarter section North 0 degrees 11 minutes 11 seconds East 117.51 feet from the southeast corner of said quarter section, which point of beginning is designated as point ''964'' on said plat: Thence South 87 degrees 19 minutes 54 seconds West 68.91 feet to point ''387'' on said plat; thence South 82 degrees 22 minutes 58 seconds West 136.11 feet to point ''386'' on said plat; thence South 88 degrees 52 minutes 11 seconds West 174.15 feet to point ''385'' on said plat; thence North 82 degrees 29 minutes 52 seconds West 243.50 feet to point ''384'' on said plat; thence North 81 degrees 16 minutes 32 seconds West 53.68 feet to a corner of said grantor's land designated as point ''1039'' on said plat; thence the next 25 courses along a line of said grantor's land: North 81 degrees 41 minutes 25 seconds West 154.64 feet to point ''383'' on said plat; thence North 79 degrees 49 minutes 23 seconds West 139.85 feet to point ''382'' on said plat; thence North 73 degrees 33 minutes 22 seconds West 280.17 feet to point ''381'' on said plat; thence North 71 degrees 17 minutes 26 seconds West 141.32 feet to point ''380'' on said plat; thence North 63 degrees 38 minutes 28 seconds West 285.84 feet to point ''379'' on said plat; thence North 56 degrees 12 minutes 27 seconds West 207.92 feet to point ''378'' on said plat; thence North 53 degrees 05 minutes 20 seconds West 216.19 feet to point ''377'' on said plat; thence North 55 degrees 25 minutes 19 seconds West 145.14 feet to point ''376'' on said plat; thence North 46 degrees 33 minutes 27 seconds West 217.24 feet to point ''375'' on said plat; thence North 44 degrees 34 minutes 25 seconds West 146.29 feet to point ''374'' on said plat; thence North 33 degrees 55 minutes 33 seconds West 262.08 feet to point ''372'' on said plat; thence North 87 degrees 59 minutes 43 seconds East 484.53 feet to point ''936'' on said plat; thence South 41 degrees 11 minutes 55 seconds East 109.86 feet to point ''396'' on said plat; thence South 46 degrees 01 minute 06 seconds East 122.14 feet to point ''395'' on said plat; thence South 32 degrees 33 minutes 26 seconds East 125.00 feet to point ''394'' on said plat; thence South 45 degrees 02 minutes 10 seconds East 247.71 feet to point ''393'' on said plat; thence South 55 degrees 22 minutes 38 seconds East 248.25 feet to point ''392'' on said plat; thence South 60 degrees 51 minutes 25 seconds East 186.61 feet to point ''391'' on said plat; thence South 65 degrees 57 minutes 02 seconds East 124.41 feet to point ''1038'' on said plat; thence South 67 degrees 43 minutes 14 seconds East 124.66 feet to point ''1037'' on said plat; thence South 74 degrees 00 minutes 51 seconds East 124.47 feet to point ''1036'' on said plat; thence South 75 degrees 46 minutes 39 seconds East 124.59 feet to point ''1035'' on said plat; thence South 80 degrees 52 minutes 27 seconds East 186.44 feet to point ''1034'' on said plat; thence South 85 degrees 28 minutes 30 seconds East 124.35 feet to point ''1033'' on said plat; thence North 89 degree 03 minutes 38 seconds East 61.61 feet to point ''1042'' on said plat; thence (leaving a line of the grantor's land) South 89 degrees 50 minutes 12 seconds East 124.54 feet to point ''1032'' on said plat; thence North 89 degrees 07 minutes 29 seconds East 221.31 feet to point ''390'' on said plat; thence North 82 degrees 49 minutes 37 seconds East 55.62 feet to a point on the east line of said quarter section designated as point ''965'' on said plat; thence South 0 degrees 11 minutes 11 seconds West 256.62 feet along said east line to the point of beginning and containing 18.154 acres, more or less.

Together with the permanent extinguishment of all rights and easements of ingress and egress to, from, and across the 18.154-acre parcel described above. This restriction is a covenant running with the land and shall be binding on the grantor and on all successors in title to the said abutting lands.

Parcel 7D: I–70 Access Interchange to Indianapolis International Airport—Midfield Terminal

A part of the Northwest Quarter of Section 4, Township 14 North, Range 2 East, and a part of the Southwest Quarter and a part of the Southeast Quarter of Section 33, Township 15 North, Range 2 East, all in Marion County, Indiana, and being that part of the grantor's land lying within the right of way lines as depicted on the attached Right of Way Parcel Plat, marked Exhibit ''B'', described as follows: Beginning at a point on the north line of the Southwest Quarter of said Section 33 North 88 degrees 54 minutes 54 seconds East 1,840.72 feet from the northwest corner of said quarter section designated as point ''878'' on said plat; thence North 36 degrees 52 minutes 15 seconds East 96.52 feet to point ''893'' on said plat; thence Northeasterly 363.25 feet along an arc to the right having a radius of 1,649.00 feet and subtended by a long chord having a bearing of North 38 degrees 18 minutes 20 seconds East and a length of 362.52 feet to point ''894'' on said plat; thence North 44 degrees 37 minutes 06 seconds East 39.43 feet to point ''278'' on said plat; thence South 45 degrees 22 minutes 53 seconds East 196.99 feet to point ''895'' on said plat; thence Southwesterly 1,515.53 feet along an arc to the left having a radius of 1,215.00 feet and subtended by a long chord having a bearing of South 8 degrees 53 minutes 04 seconds West and a length of 1,419.17 feet to point ''896'' on said plat; South 26 degrees 50 minutes 58 seconds East 196.95 feet to point ''897'' on said plat; thence South 29 degrees 06 minutes 53 seconds East 303.63 feet to point ''898'' on said plat; thence Southeasterly 300.66 feet along an arc to the right having a radius of 1,532.00 feet and subtended by a long chord having a bearing of South 21 degrees 13 minutes 38 seconds East and a length of 300.18 feet to point ''899'' on said plat; thence Southeasterly 1,000.47 feet along an arc to the left having a radius of 1,110.00 feet and subtended by a long chord having a bearing of South 83 degrees 51 minutes 15 seconds East and a length of 966.95 feet to point ''910'' on said plat; thence North 70 degrees 19 minutes 32 seconds East 768.09 feet to a point on the northwestern boundary of I–70 designated as point ''914'' on said plat; thence South 60 degrees 50 minutes 09 seconds West 2,731.09 feet along the boundary of said I–70 to a point on the northeastern boundary of Bridgeport Road designated as point ''620'' on said plat; thence North 32 degrees 02 minutes 08 seconds West 428.30 along said boundary of Bridgeport Road feet to a point on the south boundary of Thompson Road designated as point ''619'' on said plat; thence North 88 degrees 52 minutes 47 seconds West 30.46 feet along said boundary of Thompson Road to point ''887'' on said plat; thence Northeasterly 56.29 feet along an arc to the left having a radius of 1,095.00 feet and subtended by a long chord having a bearing of North 43 degrees 35 minutes 37 seconds East and a length of 56.29 feet to a point on the north boundary of said Thompson Road designated as point ''1075'' on said plat; thence North 88 degrees 52 minutes 47 seconds East 53.10 feet along said boundary of Thompson Road to a point on the eastern boundary of Bridgeport Road designated as point ''612'' on said plat; thence North 16 degrees 47 minutes 50 seconds West 47.14 feet along the boundary of said Bridgeport Road to point ''901'' on said plat; thence

Northeasterly 967.46 feet along an arc to the left having a radius of 1,095.00 feet and subtended by a long chord having a bearing of North 13 degrees 37 minutes 52 seconds East and a length of 936.30 feet to point ''888'' on said plat; thence North 11 degrees 40 minutes 51 seconds West 527.60 feet to point ''889'' on said plat; thence Northeasterly 478.98 feet along an arc to the right having a radius of 1,535.00 feet and subtended by a long chord having a bearing of North 2 degrees 44 minutes 21 seconds West and a length of 477.04 feet to point ''890'' on said plat; thence Northeasterly 433.31 feet along an arc to the right having a radius of 2,035.00 feet and subtended by a long chord having a bearing of North 12 degrees 17 minutes 52 seconds East and a length of 432.49 feet to point ''891'' on said plat; thence Northeasterly 290.85 feet along an arc to the right having a radius of 1,661.00 feet and subtended by a long chord having a bearing of North 23 degrees 24 minutes 39 seconds East and a length of 290.48 feet to point ''892'' on said plat; thence North 36 degrees 52 minutes 15 seconds East 7.14 feet to the point of beginning and containing 4.273 acres, more or less, in said Section 4, and containing 41.834 acres, more or less, in said Section 33; and containing in all 46.107 acres, more or less. Together with the permanent extinguishment of all rights and easements of ingress and egress to, from, and across the highway facilities (to be known as I–70 and Six Points Road and as Project ST–70–3(Q)), to and from the grantor's remaining lands where they abut the 46.107-acre parcel described above, except along the 196.99-foot course described above. This restriction is a covenant running with the land and shall be binding on the grantor and on all successors in title to the said abutting lands.

Parcel 7E: I–70 Between Stanley Road and Thompson Road

A part of the Northeast Quarter and a part of the Northwest Quarter of Section 4, Township 14 North, Range 2 East; a part of the Southeast Quarter of Section 33, a part of the Northeast Quarter, a part of the Southeast Quarter, and a part of the Southwest Quarter of Section 34, and a part of the Northwest Quarter of Section 35, Township 15 North, Range 2 East, all in Marion County, Indiana, and being that part of the grantor's land lying within the right of way lines as depicted on the attached Right of Way Parcel Plat, marked Exhibit ''B'', described as follows: Beginning at the intersection of the west line of the Northeast Quarter of said Section 4 and the southeastern boundary of Frontage Road Number 7 as shown on the plans for Indiana State Highway Commission Project I–70–3 (33) 68R/W, South 0 degrees 20 minutes 15 seconds East 290.17 feet from the northwest corner of said quarter section, which point of beginning is designated as point ''1014'' on said plat; thence North 60 degrees 50 minutes 09 seconds East 464.24 feet along the boundary of said Frontage Road Number 7 to point ''701'' on said plat; thence North 70 degrees 28 minutes 46 seconds East 152.40 feet along said boundary to a point on the south boundary of Thompson Road designated as point ''702'' on said plat; thence North 0 degrees 45 minutes 32 seconds West 50.03 feet to a point on the north boundary of Thompson Road designated as point ''1080'' on said plat; thence South 89 degrees 12 minutes 52 seconds West 72.63 feet along the boundary of said Thompson Road to a point on the southeastern boundary of I–70 designated as point ''704'' on said plat; thence North 53 degrees 13 minutes 44 seconds East 90.65 feet along the boundary of said I–70 to point ''705'' on said plat; thence North 60 degrees 50 minutes 09 seconds East 1,070.43 feet along said boundary to a point on the east boundary of Brushwood Road designated as point ''706'' on said plat; thence South 0 degrees 11 minutes 18 seconds East 57.15 feet along the boundary of said Brushwood Road to a point on the southeastern boundary of Frontage Road Number 8 as shown on the plans for said project designated as point ''709'' on said plat; thence North 60 degrees 50 minutes 09 seconds East 431.57 feet along the boundary of said Frontage Road Number 8 to point ''708'' on said plat; thence South 89 degrees 03 minutes 14 seconds West 105.75 feet along said boundary to a point on the southeastern boundary of I–70 designated as point ''707'' on said plat; thence North 60 degrees 50 minutes 09 seconds East 423.91 feet along the boundary of said I–70 to point ''713'' on said plat; thence along said boundary Northeasterly 756.70 feet along an arc to the left having a radius of 11,555.88 feet and subtended by a long chord having a bearing of North 58 degrees 57 minutes 36 seconds East and a length of 756.56 feet to point ''915'' on said plat; thence North 68 degrees 47 minutes 59 seconds East 197.23 feet to a point on a north line of the grantor's land designated as point ''1028'' on said plat; thence North 89 degrees 00 minutes 59 seconds East 202.78 feet along said north line to a corner of the grantor's land designated as point ''1023'' on said plat; thence North 1 degree 29 minutes 46 seconds East 75.96 feet along an east line of said grantor's land to point ''1027'' on said plat; thence North 68 degrees 47 minutes 59 seconds East 1,276.61 feet to point ''913'' on said plat; thence Northeasterly 1,189.18 feet along an arc to the left having a radius of 3,899.00 feet and subtended by a long chord having a bearing of North 60 degrees 03 minutes 44 seconds East and a length of 1,184.57 feet to point ''927'' on said plat; thence Northeasterly 434.83 feet along an arc to the left having a radius of 3,025.75 feet and subtended by a long chord having a bearing of North 50 degrees 44 minutes 37 seconds East and a length of 434.46 feet to point ''926'' on said plat; thence North 44 degrees 57 minutes 35 seconds East 3,462.71 feet to a point on the south boundary of Frontage Road Number 10 as shown on the plans for said project designated as point ''921'' on said plat; thence North 89 degrees 35 minutes 41 seconds East 515.95 feet along the boundary of said Frontage Road Number 10 to point ''923'' on said plat; thence South 44 degrees 57 minutes 35 seconds West 3,829.85 feet to point ''525'' on said plat; thence Southwesterly 1,781.37 feet along an arc to the right having a radius of 4,281.25 feet and subtended by a long chord having a bearing of South 56 degrees 52 minutes 47 seconds West and a length of 1,768.55 feet to point ''924'' on said plat; thence South 68 degrees 47 minutes 58 seconds West 900.27 feet to point ''464'' on said plat; thence Southwesterly 424.54 feet along an arc to the left having a radius of 5,960.75 feet and subtended by a long chord having a bearing of South 66 degrees 45 minutes 32 seconds West and a length of 424.45 feet to point ''461'' on said plat; thence South 64 degrees 43 minutes 06 seconds West 275.22 feet to point ''457'' on said plat; thence Southwesterly 398.83 feet along an arc to the left having a radius of 655.25 feet and subtended by a long chord having a bearing of South 47 degrees 16 minutes 52 seconds West and a length of 392.71 feet to point ''439'' on said plat; thence South 68 degrees 47 minutes 59 seconds West 132.26 feet to a point on an east line of said grantor's land designated as point ''505'' on said plat; thence North 0 degrees 12 minutes 42 seconds East 244.57 feet along said east line to a corner of said grantor's land designated as point to point ''204'' on said plat; thence South 60 degrees 50 minutes 03 seconds West 330.81 feet along a southeastern line of the grantor's land to a corner of the said grantor's land designated as point ''205'' on said plat; thence South 50 degrees 20 minutes 33

seconds West 450.44 feet along said southeastern line to point ''206'' on said plat; thence South 48 degrees 09 minutes 13 seconds West 170.28 feet along said line to point ''233'' on said plat; thence South 0 degrees 11 minutes 18 seconds East 55.71 feet along said line to point ''232'' on said plat; thence South 89 degrees 03 minutes 14 seconds West 63.57 feet along said line to point ''234'' on said plat; thence South 48 degrees 09 minutes 13 seconds West 13.68 feet along said line to point ''207'' on said plat; thence South 52 degrees 18 minutes 12 seconds West 49.69 feet along said line to a corner of said grantor's land designated as point ''229'' on said plat; thence South 0 degrees 11 minutes 19 seconds East 53.69 feet along an east line of said grantor's land to point ''496'' on said plat; thence South 60 degrees 04 minutes 48 seconds West 106.51 feet to a point on a west line of said grantor's land designated as to point ''515'' on said plat; thence North 0 degrees 11 minutes 19 seconds West 35.52 feet along said west line to a corner of the grantor's land designated as point ''228'' on said plat; thence South 52 degrees 18 minutes 12 seconds West 32.76 feet along a southeastern line of said grantor's land to point ''208'' on said plat; thence South 66 degrees 32 minutes 41 seconds West 348.52 feet along said southeastern line to a point on the north boundary of Thompson Road designated as point ''487'' on said plat; thence South 69 degrees 27 minutes 08 seconds West 148.86 feet to the intersection of said line and the south boundary of Thompson Road designated as point ''507'' on said plat; thence South 72 degrees 49 minutes 51 seconds West 199.37 feet along said line to point ''210'' on said plat; thence South 58 degrees 07 minutes 30 seconds West 1,041.19 feet along said line to point ''211'' on said plat; thence South 47 degrees 45 minutes 23 seconds West 629.50 feet along said line to a point on the eastern boundary of Frontage Road Number 7 as shown on the plans for said project designated as point ''212'' on said plat; thence North 12 degrees 01 minute 13 seconds West 239.64 feet along the boundary of said Frontage Road Number 7 to point ''691'' on said plat; thence along said boundary Northeasterly 422.37 feet along an arc to the right having a radius of 388.97 feet and subtended by a long chord having a bearing of North 24 degrees 57 minutes 54 seconds East and a length of 395.57 feet to point ''692'' on said plat; thence North 60 degrees 50 minutes 09 seconds East 315.59 feet along said boundary to the point of beginning and containing 11.028 acres, more or less, in said Section 4, and containing 19.063 acres, more or less, in said Section 33, and containing 57.903 acres, more or less, in said Section 34, and containing 2.889 acres, more or less, in said Section 35; and containing in all 90.883 acres, more or less.

Together with the permanent extinguishment of all rights and easements of ingress and egress to, from, and across the highway facilities (to be known as I–70 and Six Points Road and as Project ST–70–3(Q)), to and from the grantor's remaining lands where they abut the 90.883-acre parcel described above. This restriction is a covenant running with the land and shall be binding on the grantor and on all successors in title to the said abutting lands.

Parcel 7F: I–70 Between Hanna Avenue and High School Road

A part of the Southeast Quarter and a part of the Southwest Quarter of Section 26, Township 15 North, Range 2 East, Marion County, Indiana, and being that part of the grantor's land lying within the right of way lines as depicted on the attached Right of Way Parcel Plat, marked Exhibit ''B'', described as follows: Commencing at the southwest corner of the Southwest Quarter of said Section 26 designated as point ''608'' on said plat; thence North 89 degrees 35 minutes 55 seconds East 136.16 feet along the south line of said quarter section to point ''1057'' on said plat; thence North 44 degrees 57 minutes 35 seconds East 124.39 feet to the point of beginning of this description, which point of beginning is on the northern boundary of Hanna Avenue and is designated as point ''920'' on said plat: Thence North 44 degrees 57 minutes 35 seconds East 423.10 feet to a point on the southeastern boundary of I–70 designated as point ''908'' on said plat; thence North 52 degrees 44 minutes 03 seconds East 1,966.04 feet along the boundary of said I–70 to point ''660'' on said plat; thence along said boundary Northeasterly 1,383.19 feet along an arc to the right having a radius of 2,179.51 feet and subtended by a long chord having a bearing of North 70 degrees 54 minutes 54 seconds East and a length of 1,360.10 feet to point ''661'' on said plat; thence North 89 degrees 05 minutes 45 seconds East 410.10 feet along said boundary to point ''664'' on said plat; thence North 83 degrees 48 minutes 21 seconds East 162.69 feet along said boundary to point ''665'' on said plat; thence North 89 degrees 05 minutes 45 seconds East 438.07 feet along said boundary to point ''161'' on said plat; thence South 89 degrees 22 minutes 21 seconds East 56.12 feet along said boundary to point ''165'' on said plat; thence South 89 degrees 19 minutes 49 seconds East 91.03 feet along said boundary to point ''166'' on said plat; thence South 89 degrees 12 minutes 20 seconds East 134.96 feet along said boundary to point ''167'' on said plat; thence South 88 degrees 31 minutes 05 seconds East 168.15 feet along said boundary to point ''168'' on said plat; thence South 89 degrees 22 minutes 26 seconds East 374.49 feet along said boundary to a point on the west boundary of High School Road designated as point ''61'' on said plat; thence South 0 degrees 04 minutes 14 seconds East 133.52 feet along the boundary of said High School Road to point ''96'' on said plat; thence North 86 degrees 35 minutes 32 seconds West 214.17 feet to point ''170'' on said plat; thence South 88 degrees 38 minutes 33 seconds West 960.51 feet to point ''169'' on said plat; thence South 89 degrees 05 minutes 46 seconds West 97.55 feet to point ''749'' on said plat; thence Southwesterly 2,503.54 feet along an arc to the left having a radius of 3,250.00 feet and subtended by a long chord having a bearing of South 67 degrees 01 minute 40 seconds West and a length of 2,442.10 feet to point ''745'' on said plat; thence North 45 degrees 02 minutes 25 seconds West 68.75 feet to point ''746'' on said plat; thence South 44 degrees 57 minutes 35 seconds West 1,342.40 feet to a point on the northern boundary of Hanna Avenue designated as point ''922'' on said plat; thence North 84 degrees 22 minutes 06 seconds West 468.63 feet along the boundary of said Hanna Avenue to the point of beginning and containing 27.314 acres, more or less.

Together with the permanent extinguishment of all rights and easements of ingress and egress to, from, and across the highway facilities (to be known as I–70 and Six Points Road and as Project ST–70–3(Q)), to and from the grantor's remaining lands where they abut the 27.314-acre parcel described above, and along the line described as follows: Beginning at the South end of the 133.52-foot course described above, which point of beginning is on the west boundary of High School Road and is designated as point ''96'' on said plat; thence North 89 degrees 55 minutes 46 seconds East 115.00 feet to a point on the east boundary of said High School Road designated as point ''1085'' on said plat. This restriction is a covenant running with the land and shall be binding on the grantor and on all successors in title to the said abutting lands.

Parcel 7G: Future Road Expansion Area for Westbound I–70 Between Hanna Road and High School Road

A part of the Southeast Quarter of Section 26, Township 15 North, Range 2 East, Marion County, Indiana, and being that part of the grantor's land lying within the right of way lines as depicted on the attached Right of Way Parcel Plat, marked Exhibit ''B'', described as follows: Commencing at the northwest corner of said quarter section designated as point ''1'' on said plat; thence South 0 degrees 04 minutes 14 seconds East 326.11 feet along the east line of said quarter section to point ''1019'' on said plat; thence South 83 degrees 38 minutes 19 seconds West 60.36 feet to the point of beginning of this description, which point of beginning is on the west boundary of High School Road and is designated as point ''1018'' on said plat: Thence South 0 degrees 04 minutes 14 seconds East 116.25 feet along the boundary of said High School Road to a point on the north boundary of I–70 designated as point ''671'' on said plat; thence South 89 degrees 05 minutes 04 seconds West 427.92 feet along the boundary of said I–70 to point ''670'' on said plat; thence South 86 degrees 14 minutes 01 second West 300.38 feet along said boundary to point ''669'' on said plat; thence South 89 degrees 05 minutes 45 seconds West 300.00 feet along said boundary to point ''668'' on said plat; thence South 86 degrees 14 minutes 01 West 100.12 feet along said boundary to point ''667'' on said plat; thence South 89 degrees 04 minutes 53 seconds West 132.87 feet along said boundary to point ''666'' on said plat; thence North 85 degrees 45 minutes 58 second West 167.87 feet along said boundary to point ''663'' on said plat; thence South 89 degrees 05 minutes 45 seconds West 410.10 feet along said boundary to point ''662'' on said plat; thence along said boundary Southwesterly 283.85 feet along an arc to the left having a radius of 2,409.51 feet and subtended by a long chord having a bearing of South 85 degrees 43 minutes 16 seconds West and a length of 283.68 feet to point ''797'' on said plat; thence Northeasterly 145.12 feet along an arc to the right having a radius of 3,696.00 feet and subtended by a long chord having a bearing of North 77 degrees 01 minute 03 seconds East and a length of 145.12 feet to point ''801'' on said plat; thence North 83 degrees 04 minutes 05 seconds East 287.46 feet to point ''802'' on said plat; thence North 84 degrees 55 minutes 42 seconds East 841.37 feet to point ''803'' on said plat; thence North 89 degrees 05 minutes 45 seconds East 686.08 feet to point ''804'' on said plat; thence North 83 degrees 38 minutes 19 seconds East 170.76 feet to the point of beginning and containing 3.888 acres, more or less.

Together with the permanent extinguishment of all rights and easements of ingress and egress to, from, and across the 3.888-acre parcel described above. This restriction is a covenant running with the land and shall be binding on the grantor and on all successors in title to the said abutting lands.

Parcel 7H: Eastbound I–70 Off Ramp to Southbound I–465

A part of the Southwest Quarter of Section 25, Township 15 North, Range 2 East, Marion County, Indiana, and being that part of the grantor's land lying within the right of way lines as depicted on the attached Right of Way Parcel Plat, marked Exhibit ''B'', described as follows: Commencing at the northwest corner of said quarter section designated as point ''1'' on said plat; thence South 0 degrees 04 minutes 14 seconds East 693.10 feet along the west line of said quarter section to point ''139'' on said plat; thence North 89 degrees 55 minutes 46 seconds East 55.00 feet to the point of beginning of this description, which point of beginning is the intersection of the south boundary of I–70 and the east boundary of High School Road and is designated as point ''50'' on said plat: Thence North 89 degrees 31 minutes 09 seconds East 362.17 feet along the boundary of said I–70 to point ''953'' on said plat; thence along said boundary Southeasterly 621.68 feet along an arc to the right having a radius of 891.45 feet and subtended by a long chord having a bearing of South 70 degrees 41 minutes 46 seconds East and a length of 609.15 feet to a corner of said grantor's land designated as point ''768'' on said plat; thence South 88 degrees 34 minutes 19 seconds West 767.08 feet along a line of said grantor's land to a corner of said grantor's land designated as point ''16'' on said plat; thence South 0 degrees 04 minutes 14 seconds East 80.00 feet along a line of said grantor's land to a corner of said grantor's land designated as point ''21'' on said plat; thence South 88 degrees 48 minutes 21 West 169.99 feet along a line of the grantor's land to a point on the east boundary of High School Road designated as point ''51'' on said plat; thence North 0 degrees 04 minutes 14 seconds West 301.00 feet along the boundary of said High School Road to the point of beginning and containing 4.055 acres, more or less.

Together with the permanent extinguishment of all rights and easements of ingress and egress to, from, and across the 4.055-acre parcel described above. This restriction is a covenant running with the land and shall be binding on the grantor and on all successors in title to the said abutting lands.

Easements

Parcel 9: Northwest Corner of Six Points Road Interchange

A part of the Northeast Quarter of Section 5, Township 14 North, Range 2 East, Hendricks County, Indiana, and being that part of the grantor's land lying within the right of way lines as depicted on the attached Right of Way Parcel Plat, marked Exhibit ''B'', described as follows: Commencing at the northwest corner of said quarter section which is designated as point ''818'' on said plat; thence North 89 degrees 04 minutes 14 seconds East 82.64 feet along the north line of said quarter section to the southwest corner of the Southeast Quarter of Section 32, Township 15 North, Range 2 East, which is designated as point ''939'' on said plat; thence North 89 degrees 55 minutes 28 seconds East 126.45 feet along the north line of the Northeast Quarter of said Section 5 to point ''862'' on said plat; thence South 26 degrees 09 minutes 22 seconds East 70.16 feet to point ''179'' on said plat; thence South 32 degrees 13 minutes 23 seconds East 211.97 feet to point ''997'' on said plat; thence North 89 degrees 55 minutes 28 seconds East 4.78 feet to point ''996'' on said plat; thence South 29 degrees 51 minutes 31 seconds East 148.70 feet to point ''323'' on said plat; thence South 30 degrees 23 minutes 53 seconds West 33.76 feet to the point of beginning of this description, which point of beginning is on a north line of said grantor's land and designated as point ''994'' on said plat: Thence South 89 degrees 50 minutes 29 seconds East 45.49 feet along said north line to point ''998'' on said plat; Thence South 44 degrees 09 minutes 54 seconds East 25.11 feet to point ''322'' on said plat; thence South 86 degrees 26 minutes 23 seconds East 123.95 feet to point ''321'' on said plat; thence South 35 degrees 16 minutes 30 seconds East 137.75 feet to point ''320'' on said plat; thence South 25 degrees 50 minutes 34 seconds East 136.39 feet to point ''319'' on said plat; thence South 27 degrees 38 minutes 22 seconds East 191.25 feet to point ''318'' on said plat; thence South 12 degrees 47 minutes 39 seconds East 166.76 feet to point ''317'' on said plat; thence South 6 degrees 18 minutes 25 seconds East 352.70 feet to point ''316'' on said plat; thence South 2 degrees 08 minutes 00

seconds East 165.03 feet to point ''315'' on said plat; thence South 7 degrees 35 minutes 11 seconds West 192.20 feet to point ''314'' on said plat; thence South 14 degrees 40 minutes 34 seconds West 174.69 feet to point ''313'' on said plat; thence South 21 degrees 58 minutes 57 seconds West 138.68 feet to point ''312'' on said plat; thence South 33 degrees 19 minutes 47 seconds West 285.04 feet to point ''311'' on said plat; thence North 36 degrees 29 minutes 27 seconds West 231.55 feet to point ''331'' on said plat; thence North 3 degrees 07 minutes 41 seconds West 492.16 feet to point ''330'' on said plat; thence North 37 degrees 17 minutes 11 seconds West 180.71 feet to point ''329'' on said plat; thence North 17 degrees 52 minutes 13 seconds West 222.18 feet to point ''328'' on said plat; thence North 7 degrees 00 minutes 53 seconds West 143.80 feet to point ''327'' on said plat; thence North 10 degrees 09 minutes 24 seconds West 380.70 feet to a point on the east boundary of Six Points Road designated as point ''326'' on said plat; thence North 0 degrees 52 minutes 51 seconds East 60.11 feet along the boundary of said Six Points Road to point ''325'' on said plat; thence South 89 degrees 00 minutes 13 seconds East 193.70 feet to point ''324'' on said plat; thence North 30 degrees 18 minutes 06 seconds East 263.86 feet to the point of beginning and containing 18.375 acres, more or less.

Parcel 9A: Northeast Corner of Six Points Road Interchange

A part of the Northwest Quarter of Section 4, and a part of the Northeast Quarter of Section 5, all in Township 14 North, Range 2 East, Marion County, Indiana, and being that part of the grantor's land lying within the right of way lines as depicted on the attached Right of Way Parcel Plat, marked Exhibit ''B'', described as follows: Beginning at a point on the west line of the Northwest Quarter of said Section 4 South 0 degrees 02 minutes 24 seconds West 975.78 feet from the northwest corner of said quarter section which point is designated as point ''826'' on said plat; thence North 88 degrees 35 minutes 45 seconds East 53.30 feet to point ''262'' on said plat; thence South 77 degrees 55 minutes 43 seconds West 222.35 feet to point ''261'' on said plat; thence North 87 degrees 52 minutes 11 seconds West 165.02 feet to point ''260'' on said plat; thence North 78 degrees 09 minutes 02 seconds West 183.22 feet to point ''259'' on said plat; thence North 83 degrees 19 minutes 30 seconds West 426.66 feet to point ''254'' on said plat; thence North 74 degrees 10 minutes 51 seconds West 198.70 feet to point ''247'' on said plat; thence North 59 degrees 27 minutes 24 seconds West 121.91 feet to point ''198'' on said plat; thence North 52 degrees 36 minutes 24 seconds West 302.79 feet to point ''197'' on said plat; thence North 46 degrees 29 minutes 15 seconds West 305.03 feet to point ''196'' on said plat; thence South 87 degrees 34 minutes 12 seconds West 58.40 feet to a point on a prolonged western line of the grantor's land designated as point ''195'' on said plat; thence North 46 degrees 21 minutes 40 seconds West 140.91 feet along said prolonged western line and the western line of the grantor's land to point ''194'' on said plat; thence North 25 degrees 50 minutes 34 seconds East 85.23 feet along said line to point ''193'' on said plat; thence North 42 degrees 16 minutes 22 seconds West 23.79 feet along said line to point ''192'' on said plat; thence South 69 degrees 00 minutes 43 seconds East 135.40 feet along said line to point ''45'' on said plat; thence South 86 degrees 59 minutes 22 seconds East 160.03 feet along said line to point ''46'' on said plat; thence South 81 degrees 14 minutes 49 seconds East 255.36 feet along said line to point ''47'' on said plat; thence North 76 degrees 23 minutes 27 seconds East 140.16 feet along said line to point ''48'' on said plat; thence South 15 degrees 43 minutes 46 seconds East 72.63 feet along said line to point ''89'' on said plat; thence South 14 degrees 29 minutes 16 seconds West 327.77 feet along said line and said prolonged western line of the grantor's land to point ''90'' on said plat; thence South 70 degrees 27 minutes 58 seconds East 110.37 feet to point ''91'' on said plat; thence South 75 degrees 39 minutes 02 seconds East 144.04 feet to point ''174'' on said plat; thence South 65 degrees 40 minutes 07 seconds East 119.29 feet to point ''175'' on said plat; thence South 77 degrees 49 minutes 16 seconds East 287.95 feet to point ''176'' on said plat; thence South 75 degrees 21 minutes 58 seconds East 331.82 feet to point ''177'' on said plat; thence South 79 degrees 52 minutes 30 seconds East 186.52 feet to point ''178'' on said plat; thence North 88 degrees 35 minutes 45 seconds East 78.33 feet to the point of beginning and containing 0.006 acres, more or less, in said Section 4, and containing 7.443 acres, more or less, in said Section 5; and containing in all 7.449 acres, more or less.

Parcel 9B: Southwest Corner of Six Points Road Interchange

A part of the Southwest Quarter of Section 4, Township 14 North, Range 2 East, Marion County Indiana, and a part of the Southeast Quarter of Section 5, all in Township 14 North, Range 2 East, Hendricks County, Indiana, and being that part of the grantor's land lying within the right of way lines as depicted on the attached Right of Way Parcel Plat, marked Exhibit ''B'', described as follows: Beginning at a point on the west line of the Southwest Quarter of said Section 4 South 0 degrees 07 minutes 44 seconds East 871.64 feet from the northwest corner of said quarter section, which point of beginning is designated as point ''849'' on said plat; thence South 29 degrees 30 minutes 57 seconds East 70.52 feet to point ''344'' on said plat; thence South 27 degrees 48 minutes 18 seconds East 135.20 feet to point ''373'' on said plat; thence South 18 degrees 48 minutes 36 seconds East 248.21 feet to a corner of the grantor's land designated as point ''372'' on said plat; thence South 87 degrees 59 minutes 41 seconds West 177.00 feet along a south line of said grantor's land to a point on the west line of the Southwest Quarter of said Section 4 designated as point ''371'' on said plat; thence North 60 degrees 42 minutes 39 seconds West 126.45 feet to point ''370'' on said plat; thence South 85 degrees 23 minutes 22 seconds West 299.32 feet to point ''369'' on said plat; thence South 52 degrees 29 minutes 39 seconds West 281.44 feet to point ''368'' on said plat; thence South 65 degrees 17 minutes 53 seconds West 99.78 feet to point ''367'' on said plat; thence North 84 degrees 21 minutes 32 seconds West 128.12 feet to point ''366'' on said plat; thence North 55 degrees 57 minutes 57 seconds West 176.68 feet to point ''365'' on said plat; thence North 38 degrees 55 minutes 41 seconds West 197.53 feet to point ''364'' on said plat; thence North 79 degrees 09 minutes 52 seconds West 139.19 feet to point ''363'' on said plat; thence South 63 degrees 57 minutes 57 seconds West 116.00 feet to point ''362'' on said plat; thence South 34 degrees 02 minutes 03 seconds West 176.68 feet to point ''361'' on said plat; thence South 2 degrees 42 minutes 20 seconds West 114.83 feet to point ''360'' on said plat; thence South 89 degrees 02 minutes 15 seconds West 125.80 feet to point ''359'' on said plat; thence North 37 degrees 37 minutes 10 seconds West 245.45 feet to point ''358'' on said plat; thence North 22 degrees 02 minutes 22 seconds West 132.26 feet to point ''357'' on said plat; thence North 12 degrees 49 minutes 22 seconds East 132.42 feet to point ''356'' on said plat; thence North 25 degrees 17 minutes 53 seconds East 84.67 feet to point ''355'' on said plat; thence North 31 degrees 04 minutes 25 seconds West 98.48 feet to point ''354'' on said plat; thence North 21 degrees 54 minutes 40

seconds West 181.90 feet to point ''353'' on said plat; thence North 15 degrees 00 minutes 19 seconds East 160.09 feet to point ''352'' on said plat; thence North 22 degrees 43 minutes 41 seconds East 212.65 feet to point ''351'' on said plat; thence North 2 degrees 35 minutes 58 seconds West 139.39 feet to point ''350'' on said plat; thence North 87 degrees 47 minutes 29 seconds West 157.55 feet to point ''349'' on said plat; thence South 67 degrees 47 minutes 19 seconds West 271.02 feet to point ''348'' on said plat; thence South 75 degrees 34 minutes 45 seconds West 128.92 feet to point ''347'' on said plat; thence South 60 degrees 50 minutes 08 seconds West 180.45 feet to point ''346'' on said plat; thence South 52 degrees 18 minutes 18 seconds West 132.70 feet to point ''345'' on said plat; thence South 67 degrees 57 minutes 48 seconds West 16.22 feet to a point on the eastern boundary of Six Points Road designated as point ''848'' on said plat; thence North 4 degrees 38 minutes 50 seconds East 107.89 feet along the boundary of said Six Points Road to point ''332'' on said plat; thence North 63 degrees 53 minutes 03 seconds East 300.88 feet to point ''333'' on said plat; thence North 85 degrees 15 minutes 36 seconds East 239.43 feet to point ''334'' on said plat; thence North 58 degrees 54 minutes 58 seconds East 179.10 feet to point ''335'' on said plat; thence North 69 degrees 38 minutes 00 seconds East 255.00 feet to point ''337'' on said plat; thence South 84 degrees 35 minutes 13 seconds East 214.97 feet to point ''338'' on said plat; thence South 73 degrees 19 minutes 18 seconds East 96.18 feet to point ''339'' on said plat; thence South 69 degrees 25 minutes 46 seconds East 239.82 feet to point ''340'' on said plat; thence South 71 degrees 05 minutes 41 seconds East 528.26 feet to point ''341'' on said plat; thence South 64 degrees 07 minutes 38 seconds East 324.58 feet to point ''342'' on said plat; thence South 49 degrees 12 minutes 52 seconds East 291.68 feet to point ''343'' on said plat; thence South 29 degrees 30 minutes 57 seconds East 169.47 feet to the point of beginning and containing 0.958 acres, more or less, in said Section 4, and containing 41.576 acres, more or less, in said Section 5; and containing in all 42.534 acres, more or less.

Parcel 9C: Southeast Corner of Six Points Road Interchange

A part of the Northwest Quarter and a part of the Southwest Quarter of Section 4, Township 14 North, Range 2 East, Marion County, Indiana, and being that part of the grantor's land lying within the right of way lines as depicted on the attached Right of Way Parcel Plat, marked Exhibit ''B'', described as follows: Beginning at a point on the south line of the Northwest Quarter of said Section 4 North 87 degrees 29 minutes 14 seconds East 369.91 feet from the southwest corner of said quarter section, which point of beginning is designated as point ''851'' on said plat; thence North 20 degrees 00 minutes 28 seconds East 132.22 feet to point ''408'' on said plat; thence North 36 degrees 59 minutes 46 seconds East 202.18 feet to point ''409'' on said plat; thence North 43 degrees 49 minutes 14 seconds East 248.85 feet to point ''410'' on said plat; thence North 39 degrees 48 minutes 46 seconds East 151.79 feet to point ''411'' on said plat; thence North 46 degrees 03 minutes 50 seconds East 180.06 feet to point ''412'' on said plat; thence North 34 degrees 14 minutes 47 seconds East 149.97 feet to point ''413'' on said plat; thence North 48 degrees 04 minutes 20 seconds East 79.25 feet to point ''414'' on said plat; thence North 60 degrees 01 minute 08 seconds East 97.05 feet to point ''415'' on said plat; thence North 44 degrees 21 minutes 59 seconds East 179.23 feet to point ''416'' on said plat; thence North 51 degrees 28 minutes 53 seconds East 59.41 feet to point ''417'' on said plat; thence North 29 degrees 40 minutes 52 seconds East 142.01 feet to point ''418'' on said plat; thence North 60 degrees 32 minutes 39 seconds East 733.37 feet to a point on the west boundary of Stanley Road designated as point ''429'' on said plat; thence along the boundary of said Stanley Road Southeasterly 60.22 feet along an arc to the right having a radius of 1,110.00 feet and subtended by a long chord having a bearing of South 6 degrees 47 minutes 32 seconds East and a length of 60.21 feet to point ''687'' on said plat; thence South 4 degrees 46 minutes 37 seconds East 110.70 feet along said boundary to a point on the north line of Easement #21 as described in Instrument Number 84–85638 in the Office of the Recorder of Marion County, Indiana, designated as point ''428'' on said plat; thence South 88 degrees 38 minutes 36 seconds West 165.22 feet along said north line to the northwest corner of said easement designated as point ''857'' on said plat; thence South 1 degree 22 minutes 50 seconds East 147.85 feet along the west line of said easement to the southwest corner of said easement designated as point ''858'' on said plat; thence North 88 degrees 38 minutes 29 seconds East 172.39 feet along the south line of said easement to a point on the west boundary of Stanley Road designated as point ''427'' on said plat; thence South 1 degree 20 minutes 29 seconds East 213.44 feet along the boundary of said Stanley Road to a point on a south line of said grantor's land designated as point ''426'' on said plat; thence South 87 degrees 29 minutes 21 seconds West 179.88 feet along said south line to point ''425'' on said plat; thence North 86 degrees 28 minutes 35 seconds West 224.53 feet along said line to point ''424'' on said plat; thence South 30 degrees 34 minutes 38 seconds West 697.52 feet along said line to point ''422'' on said plat; thence South 48 degrees 54 minutes 37 seconds West 700.63 feet along said line to point ''421'' on said plat; thence South 0 degrees 28 minutes 46 seconds East 591.46 feet along said line to point ''420'' on said plat; thence South 30 degrees 13 minutes 20 seconds West 121.50 feet along said line to point ''419'' on said plat; thence South 54 degrees 45 minutes 38 seconds West 349.81 feet along said line to point ''399'' on said plat; thence North 26 degrees 35 minutes 32 seconds West 248.18 feet along said line to point ''400'' on said plat; thence North 14 degrees 03 minutes 59 seconds West 102.96 feet along said line to point ''401'' on said plat; thence North 5 degrees 00 minutes 24 seconds West 120.45 feet along said line to point ''402'' on said plat; thence North 0 degrees 45 minutes 26 seconds West 106.79 feet along said line to point ''403'' on said plat; thence North 6 degrees 12 minutes 32 seconds East 97.19 feet along said line to point ''404'' on said plat; thence North 10 degrees 48 minutes 35 seconds East 90.63 feet along said line to point ''405'' on said plat; thence North 4 degrees 22 minutes 54 seconds East 46.43 feet along said line to point ''406'' on said plat; thence North 16 degrees 30 minutes 16 seconds East 81.13 feet along said line to point ''407'' on said plat; thence North 20 degrees 00 minutes 28 seconds East 47.70 feet along said line to the point of beginning and containing 26.325 acres, more or less.

Parcel 9D: West Side of Access Interchange to Indianapolis International Airport Midfield Terminal

A part of the Northwest Quarter of Section 4, Township 14 North, Range 2 East, and a part of the Northwest Quarter and a part of the Southwest Quarter of Section 33, Township 15 North, Range 2 East, all in Marion County, Indiana, and being that part of the grantor's land lying within the right of way lines as depicted on the attached Right of Way Parcel Plat, marked Exhibit ''B'', described as follows: Beginning at a point on the south line of the Northwest Quarter of said Section

33 North 88 degrees 54 minutes 54 seconds East 1,732.62 feet from the southwest corner of said quarter section, which point of beginning is designated as point ''273'' on said plat; thence North 32 degrees 17 minutes 13 seconds East 59.50 feet to point ''274'' on said plat; thence North 36 degrees 52 minutes 09 seconds East 99.92 feet to point ''275'' on said plat; thence Northeasterly 379.21 feet along an arc to the right having a radius of 1,739.00 feet and subtended by a long chord having a bearing of North 38 degrees 22 minutes 10 seconds East and a length of 378.46 feet to point ''276'' on said plat; thence North 44 degrees 37 minutes 06 seconds East 39.43 feet to point ''277'' on said plat; thence South 45 degrees 22 minutes 53 seconds East 90.00 feet to point ''278'' on said plat; thence South 44 degrees 37 minutes 06 seconds West 39.43 feet to point ''894'' on said plat; thence Southwesterly 363.25 feet along an arc to the left having a radius of 1,649.00 feet and subtended by a long chord having a bearing of South 38 degrees 18 minutes 20 seconds West and a length of 362.52 feet to point ''893'' on said plat; thence South 36 degrees 52 minutes 15 seconds West 103.67 feet to point ''892'' on said plat; thence Southwesterly 290.85 feet along an arc to the left having a radius of 1,661.00 feet and subtended by a long chord having a bearing of South 23 degrees 24 minutes 39 seconds West and a length of 290.48 feet to point ''891'' on said plat; thence Southwesterly 433.31 feet along an arc to the left having a radius of 2,035.00 feet and subtended by a long chord having a bearing of South 12 degrees 17 minutes 52 seconds West and a length of 432.49 feet to point ''890'' on said plat; thence Southerly 478.98 feet along an arc to the left having a radius of 1,535.00 feet and subtended by a long chord having a bearing of South 2 degrees 44 minutes 21 seconds East and a length of 477.04 feet to point ''889'' on said plat; thence South 11 degrees 40 minutes 51 seconds East 527.60 feet to point ''888'' on said plat; thence Southwesterly 1,084.50 feet along an arc to the right having a radius of 1,095.00 feet and subtended by a long chord having a bearing of South 16 degrees 41 minutes 35 seconds West and a length of 1,040.72 feet to a point on the south boundary of Thompson Road designated as point ''887'' on said plat; thence South 73 degrees 26 minutes 40 seconds West 123.52 feet to point ''266'' on said plat; thence North 15 degrees 26 minutes 46 seconds East 90.13 feet to point ''267'' on said plat; thence North 87 degrees 22 minutes 29 seconds East 39.00 feet to point ''268'' on said plat; thence Northeasterly 1,004.05 feet along an arc to the left having a radius of 1,018.00 feet and subtended by a long chord having a bearing of North 16 degrees 53 minutes 41 seconds East and a length of 963.85 feet to point ''269'' on said plat; thence North 13 degrees 04 minutes 32 seconds West 533.44 feet to point ''270'' on said plat; thence Northerly 507.07 feet along an arc to the right having a radius of 1,625.00 feet and subtended by a long chord having a bearing of North 2 degrees 44 minutes 22 seconds West and a length of 505.01 feet to point ''271'' on said plat; thence Northeasterly 265.80 feet along an arc to the right having a radius of 2,125.00 feet and subtended by a long chord having a bearing of North 9 degrees 46 minutes 52 seconds East and a length of 265.62 feet to point ''272'' on said plat; thence Northeasterly 414.51 feet along an arc to the right having a radius of 1,753.50 feet and subtended by a long chord having a bearing of North 18 degrees 57 minutes 37 seconds East and a length of 413.54 feet to point ''813'' on said plat; thence North 24 degrees 24 minutes 31 seconds East 33.18 feet to the point of beginning and containing 0.095 acres, more or less, in said Section 4, and containing 6.547 acres, more or less, in said Section 33; and containing in all, 6.642 acres, more or less.

Parcel 9E: East Side of Access Interchange to Indianapolis International Airport Midfield Terminal

A part of the Southwest Quarter of Section 26, a part of the Southeast Quarter of Section 27, a part of the Northwest Quarter, a part of the Southwest Quarter and a part of the Southeast Quarter of Section 33, a part of the Northeast Quarter, a part of the Northwest Quarter, a part of the Southwest Quarter and a part of the Southeast Quarter of Section 34, and a part of the Northwest Quarter of Section 35, all in Township 15 North, Range 2 East, Marion County, Indiana, and being that part of the grantor's land lying within the right of way lines as depicted on the attached Right of Way Parcel Plat, marked Exhibit ''B'', described as follows: Beginning at a point on the south line of the Northwest Quarter of said Section 33 North 88 degrees 54 minutes 54 seconds East 2,103.62 feet from the southwest corner of said quarter section, which point of beginning is designated as point ''879'' on said plat; thence Northeasterly 310.59 feet along an arc to the right having a radius of 1,215.00 feet and subtended by a long chord having a bearing of North 37 degrees 17 minutes 42 seconds East and a length of 309.75 feet to point ''895'' on said plat; thence South 45 degrees 22 minutes 53 seconds East 90.00 feet to point ''279'' on said plat; thence Southwesterly 394.80 feet along an arc to the left having a radius of 1,125.00 feet and subtended by a long chord having a bearing of South 34 degrees 33 minutes 53 seconds West and a length of 392.78 feet to point ''280'' on said plat; thence South 18 degrees 29 minutes 18 seconds West 338.02 feet to point ''281'' on said plat; thence South 2 degrees 10 minutes 14 seconds West 115.55 feet to point ''282'' on said plat; thence South 6 degrees 26 minutes 40 seconds East 94.15 feet to point ''283'' on said plat; thence South 11 degrees 10 minutes 34 seconds East 127.37 feet to point ''284'' on said plat; thence South 20 degrees 02 minutes 35 seconds East 147.56 feet to point ''285'' on said plat; thence South 29 degrees 05 minutes 51 seconds East 244.10 feet to point ''286'' on said plat; thence South 33 degrees 39 minutes 40 seconds East 326.90 feet to point ''287'' on said plat; thence South 39 degrees 31 minutes 25 seconds East 180.10 feet to point ''288'' on said plat; thence South 24 degrees 51 minutes 44 seconds East 208.94 feet to point ''289'' on said plat; thence South 29 degrees 09 minutes 38 seconds East 219.64 feet to point ''290'' on said plat; thence Southeasterly 443.25 feet along an arc to the left having a radius of 1,045.00 feet and subtended by a long chord having a bearing of South 86 degrees 05 minutes 50 seconds East and a length of 439.94 feet to point ''291'' on said plat; thence Northeasterly 849.37 feet along an arc to the right having a radius of 20,040.00 feet and subtended by a long chord having a bearing of North 67 degrees 35 minutes 07 seconds East and a length of 849.31 feet to point ''292'' on said plat; thence North 68 degrees 47 minutes 59 seconds East 3,088.25 feet to point ''297'' on said plat; thence Northeasterly 1,556.15 feet along an arc to the left having a radius of 3,740.00 feet and subtended by a long chord having a bearing of North 56 degrees 52 minutes 47 seconds East and a length of 1,544.95 feet to point ''299'' on said plat; thence North 44 degrees 57 minutes 35 seconds East 4,614.74 feet to a point on the northwestern boundary of I–70 designated as point ''306'' on said plat; thence North 52 degrees 44 minutes 03 seconds East 1,321.42 feet along the boundary of said I–70 to point ''796'' on said plat; thence South 44 degrees 57 minutes 35 seconds West 5,924.02 feet to point ''926'' on said plat; thence Southwesterly 434.83 feet along an arc to the right having a radius of 3,025.75 feet and subtended by a long

chord having a bearing of South 50 degrees 44 minutes 37 seconds West and a length of 434.46 feet to point ''927'' on said plat; thence Southwesterly 1,189.18 feet along an arc to the right having a radius of 3,899.00 feet and subtended by a long chord having a bearing of South 60 degrees 03 minutes 44 seconds West and a length of 1,184.57 feet to point ''913'' on said plat; thence South 68 degrees 47 minutes 59 seconds West 1,703.25 feet to point ''912'' on said plat; thence Southwesterly 320.54 feet along an arc to the right having a radius of 1,165.00 feet and subtended by a long chord having a bearing of South 69 degrees 33 minutes 43 seconds West and a length of 319.53 feet to point ''911'' on said plat; thence South 70 degrees 19 minutes 34 seconds West 1,710.55 feet to point ''910'' on said plat; thence Northwesterly 1,000.47 feet along an arc to the right having a radius of 1,110.00 feet and subtended by a long chord having a bearing of North 83 degrees 51 minutes 15 seconds West and a length of 966.95 feet to point ''899'' on said plat; thence Northwesterly 300.66 feet along an arc to the left having a radius of 1,532.00 feet and subtended by a long chord having a bearing of North 21 degrees 13 minutes 38 seconds West and a length of 300.18 feet to point ''898'' on said plat; thence North 29 degrees 06 minutes 53 seconds West 303.63 feet to point ''897'' on said plat; thence North 26 degrees 50 minutes 58 seconds West 196.95 feet to point ''896'' on said plat; thence Northerly 1,204.94 feet along an arc to the right having a radius of 1,215.00 feet and subtended by a long chord having a bearing of North 1 degree 33 minutes 40 seconds East and a length of 1,156.16 feet to the point of beginning and containing 6.751 acres, more or less, in said Section 26, and containing 0.158 acres, more or less, in said Section 27, and containing 15.002 acres, more or less, in said Section 33, and containing 26.381 acres, more or less, said in Section 34, and containing 0.213 acres, more or less, in said Section 35; and containing in all 48.505 acres, more or less.

Parcel 9F: Parcel Parallel to I–70—Between the High School Road Interchange to Indianapolis International Airport Midfield Terminal Access Interchange

A part of the Southwest Quarter of Section 26, a part of the Southeast Quarter of Section 33, a part of the Southwest Quarter, a part of the Southeast Quarter and a part of the Northeast Quarter of Section 34, and a part of the Northwest Quarter of Section 35, all in Township 15 North, Range 2 East, Marion County, Indiana, and being that part of the grantor's land lying within the right of way lines as depicted on the attached Right of Way Parcel Plat, marked Exhibit ''B'', described as follows: Beginning at a point on the west line of the Southeast Quarter of said Section 33 North 0 degrees 09 minutes 38 seconds East 722.16 feet from the southeast corner of said quarter section, which point of beginning is designated as point ''522'' on said plat; thence South 68 degrees 47 minutes 59 seconds West 78.52 feet to point ''439'' on said plat; thence Northeasterly 398.83 feet along an arc to the right having a radius of 655.25 feet and subtended by a long chord having a bearing of North 47 degrees 16 minutes 52 seconds East and a length of 392.71 feet to point ''457'' on said plat; thence North 64 degrees 43 minutes 06 seconds East 275.22 feet point ''461'' on said plat; thence Northeasterly 424.54 feet along an arc to the right having a radius of 5,960.75 feet and subtended by a long chord having a bearing of North 66 degrees 45 minutes 32 seconds East and a length of 424.45 feet to point ''464'' on said plat; thence North 68 degrees 47 minutes 58 seconds East 900.27 feet point ''924'' on said plat; thence Northeasterly 1,781.37 feet along an arc to the left having a radius of 4,281.25 feet and subtended by a long chord having a bearing of North 56 degrees 52 minutes 47 seconds East and a length of 1,768.55 feet to point ''525'' on said plat; thence North 44 degrees 57 minutes 35 seconds East 5,440.04 feet to point ''746'' on said plat; thence South 45 degrees 02 minutes 25 seconds East 128.75 feet to point ''744'' on said plat; thence South 44 degrees 57 minutes 35 seconds West 1,266.31 feet to a point on the south line of the Southwest Quarter of said Section 26 designated as point ''727'' on said plat; thence South 44 degrees 16 minutes 55 seconds West 21.10 feet to a point on the southern boundary of Hanna Avenue designated as point ''643'' on said plat; thence South 80 degrees 08 minutes 11 seconds West 52.51 feet along the boundary of said Hanna Avenue to point ''726'' on said plat; thence South 44 degrees 57 minutes 35 seconds West 1,186.51 feet to point ''721'' on said plat; thence South 13 degrees 59 minutes 45 seconds West 93.30 feet to point ''720'' on said plat; thence South 43 degrees 51 minutes 27 seconds West 913.55 feet to point ''716'' on said plat; thence South 67 degrees 59 minutes 34 seconds West 230.65 feet to point ''690'' on said plat; thence South 45 degrees 00 minutes 08 seconds West 164.36 feet to point ''689'' on said plat; thence South 0 degrees 17 minutes 29 seconds West 149.07 feet to point ''626'' on said plat; thence North 89 degrees 18 minutes 18 seconds West 55.86 feet to point ''624'' on said plat; thence South 44 degrees 57 minutes 35 seconds West 232.00 feet to point ''561'' on said plat; thence South 48 degrees 23 minutes 42 seconds West 684.23 feet to point ''558'' on said plat; thence South 47 degrees 59 minutes 04 seconds West 534.06 feet to point ''526'' on said plat; thence South 44 degrees 30 minutes 44 seconds East 40.00 feet to point ''551'' on said plat; thence South 47 degrees 33 minutes 18 seconds West 481.20 feet to point ''524'' on said plat; thence South 51 degrees 18 minutes 44 seconds West 436.41 feet to point ''521'' on said plat; South 61 degrees 35 minutes 09 seconds West 443.00 feet to point ''468'' on said plat; thence South 66 degrees 25 minutes 30 seconds West.

514.72 feet to point ''466'' on said plat; thence South 68 degrees 47 minutes 58 seconds West 1,200.00 feet to point ''462'' on said plat; thence South 63 degrees 29 minutes 44 seconds West 378.62 feet to point ''444'' on said plat; thence South 49 degrees 46 minutes 47 seconds West 30.67 feet to point ''443'' on said plat; thence South 68 degrees 47 minutes 59 seconds West 198.94 feet to the point of beginning and containing 3.936 acres, more or less, in said Section 26, and containing 0.069 acres, more or less, in said Section 33, and containing 19.309 acres, more or less, in said Section 34, and containing 2.348 acres, more or less, in said Section 35; and containing in all 25.662 acres, more or less.

Issued in Des Plaines, Illinois on December 1, 2009.

James G. Keefer,

Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. E9–30298 Filed 12–18–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 15, 2009.

The Department of Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed

and to the Treasury PRA Department Clearance Officer, Department of the Treasury, Room 11010, and 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before January 20, 2010 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0054.

Type of Review: Extension.

Title: Ownership Certificate.

Form: 1000.

Description: Form 1000 is used by citizens, resident individuals, fiduciaries, partnerships and nonresident partnerships in connection with interest on bonds of a domestic, resident foreign, or nonresident foreign corporation containing a tax-free covenant and issued before January 1, 1934. IRS uses the information to verify that the correct amount of tax was withheld.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 5,040 hours.

OMB Number: 1545–0938.

Type of Review: Extension.

Title: 1120–IC–DISC, Interest Charge Domestic International Sales Corporation Return; Schedule K, Shareholder's Statement of IC–DISC Distributions; Schedule P, Intercompany Transfer Price * * *

Form: 1120–IC–DISC, 1120–IC–DISC (Sch. K), 1120–IC–DISC (Sch. P).

Description: U.S. Corporations that have elected to be an interest charge domestic international sales corporation (IC–DISC) file Form 1120 IC–DISC to report their income and deductions. The IC–DISC is not taxed, but IC–DISC shareholders are taxed on their share of IC- DISC income. IRS uses Form 1120–IC–DISC to check the IC–DISC's computation of income. Schedule K (Form 1120–IC–DISC) is used to report income to shareholders; Schedule P (Form 1120–IC–DISC) is used by the IC–DISC to report its dealing with related suppliers, *etc.*

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 242,340 hours.

Clearance Officer: R. Joseph Durbala (202) 622–3634, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Shagufta Ahmed (202) 395–7873, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Celina M. Elphage,

Treasury PRA Clearance Officer.

[FR Doc. E9–30258 Filed 12–18–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 15, 2009.

The Department of the Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before January 20, 2010 to be assured of consideration.

Alcohol and Tobacco Tax and Trade Bureau (TTB)

OMB Number: 1513–0077.

Type of Review: Revision.

Title: Records of Things of Value to Retailers, and Occasional Letter Reports from Industry Members Regarding Information on Sponsorships, Advertisements, Promotions, *etc.,* under the FAA Act—TTB REC 5190/1.

Description: These records and occasional letter reports are used to show compliance with the provisions of the Federal Alcohol Administration Act which prevents wholesalers, producers, or importers from giving things of value to retail liquor dealers, and prohibits industry members from conducting certain types of sponsorships, advertisings, promotions, *etc.*

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 2,112 hours.

OMB Number: 1513–0072.

Type of Review: Extension.

Title: Applications and Notices—Manufacturers of Non-beverage Products (TTB REC 5530/1).

Description: Reports (Letterhead Applications and Notices) are submitted by manufacturers of non-beverage products who are using distilled spirits on which drawback will be claimed. TTB uses these reports to ensure that operations are in compliance with the law, to prevent spirits from being diverted to beverage use, and to protect the revenue.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 510 hours.

OMB Number: 1513–0098.

Type of Review: Extension.

Form: TTB F 5154.2.

Title: Supporting Data for Non-beverage Drawback Claims.

Description: Data required to be submitted by manufacturers of non-beverage products are used to verify claims for drawback of taxes and hence, to protect the revenue. This form is used to verify that all distilled spirits can be accounted for and that drawback is paid only in the amount prescribed by law.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 3,422 hours.

OMB Number: 1513–0093.

Type of Review: Extension.

Form: TTB F 5600.38.

Title: Application for Extension of Time for Payment of Tax.

Description: TTB uses the information on the form to determine if a taxpayer is qualified to extend the tax payment based on circumstances beyond the taxpayer's control.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 3 hours.

OMB Number: 1513–0064.

Type of Review: Extension.

Title: Importer's Records and Reports (TTB REC 5170/1).

Description: This recordkeeping and reporting requirement concerns the records which must be maintained by the importer as well as the applications and notices required to be submitted to TTB. The records are used by TTB to verify that operations are being conducted in compliance with the law and to ensure that all taxes and duties have been paid on imported spirits, thus protecting the revenue.

Respondents: Federal Government.

Estimated Total Burden Hours: 251 hours.

OMB Number: 1513–0052.

Type of Review: Revision.

Form: TTB F 5110.75.

Title: Alcohol Fuel Plants (AFP) Records, Reports, and Notices (REC 5110/10).

Description: This information is necessary to determine that persons are qualified to produce alcohol for fuel

purposes, and to identify such persons; to account for distilled spirits produced, and verify its proper disposition; to keep registrations current; and to evaluate permissible variations from prescribed procedures.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 2,784 hours.

Clearance Officer: Frank Foote (202) 927–9347, Alcohol and Tobacco Tax and Trade Bureau, Room 200 East, 1310 G Street, NW., Washington, DC 20005.

OMB Reviewer: Shagufta Ahmed, (202) 395–7873, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Celina Elphage,

Treasury PRA Clearance Officer.

[FR Doc. E9–30214 Filed 12–18–09; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the name of three individuals and four entities whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (''Kingpin Act'') (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The designation by the Director of OFAC of the three individuals and four entities identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on December 15, 2009.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, *tel.:* 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on 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 Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the President to impose sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury consults with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security when designating and blocking the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On December 15, 2009, OFAC designated three individuals and four entities whose property and interests in property are blocked pursuant to section 805(b) of the Foreign Narcotics Kingpin Designation Act.

The list of additional designees is as follows:

Individuals

1. CONTRERAS NOVOA, Hector, Avenida Chapalita No. 1015, Zapopan, Jalisco, Mexico; DOB 16 Sep 1968; C.U.R.P. CONH680916HJCNVC05 (Mexico); Passport 03140180849 (Mexico); (INDIVIDUAL) [SDNTK].
2. REYES GARZA, Agustin (a.k.a. ''Don Pilo''); c/o ESTETIC CARR DE OCCIDENTE, S.A. DE C.V., Guadalajara, Mexico; c/o ESTETICA CAR WASH S.A. DE C.V., Zapopan, Jalisco, Mexico; Calle Violetas No. 371, Colonia Las Bodegas, Zapopan, Jalisco, Mexico; DOB 21 Aug 1957; POB Guadalajara, Jalisco, Mexico; (INDIVIDUAL) [SDNTK].
3. TARAZONA ENCISO, Nestor Alonso, c/o AGROPECUARIA LA CRUZ S.A., Bogota, Colombia; c/o CRIADERO LAS CABANAS LTDA., Bogota, Colombia; Calle 137 No. 52–37, Rincon Iberia, Bogota, Colombia; San Martin, Meta, Colombia; DOB 13 Jun 1965; Cedula No. 79344969 (Colombia); (INDIVIDUAL) [SDNTK].

Entities

1. AGROPECUARIA LA CRUZ S.A., Calle 137 No. 88–76 Int. 2 Apto. 143, Bogota, Colombia; NIT # 813004216–1 (Colombia); (ENTITY) [SDNTK].
2. CRIADERO LAS CABANAS LTDA., Calle 137 No. 88–76 Int. 2 Apto. 143, Bogota, Colombia; NIT # 816005110–5 (Colombia); (ENTITY) [SDNTK].
3. ESTETIC CARR DE OCCIDENTE, S.A. DE C.V., Zapopan, Jalisco, Mexico; Matricula Mercantil No 48131–1 (Mexico) issued: 08 May 2009; (ENTITY) [SDNTK].
4. ESTETICA CAR WASH S.A. DE C.V. (a.k.a. ESTETIC CAR WASH, S.A. DE C.V.); Aviacion No. 5250, Colonia Valle Real, Zapopan, Jalisco C.P. 45019, Mexico; Av. de la Aviacion #5250, Col. Palma Real, Zapopan, Jalisco, Mexico; R.F.C. ECW030227L81 (Mexico); (ENTITY) [SDNTK].

Dated: December 15, 2009.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E9–30215 Filed 12–18–09; 8:45 am]

BILLING CODE 4811–45–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, January 27, 2010.

FOR FURTHER INFORMATION CONTACT: Susan Gilbert at 1–888–912–1227 or (515) 564–6638.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Wednesday, January 27, 2010, at 3 p.m. Eastern Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Susan Gilbert. For more information please contact Ms. Gilbert at 1–888–912–1227 or (515) 564–6638 or write: TAP Office, 210 Walnut Street, Stop 5115, Des Moines, IA 50309 or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: December 11, 2009.

Shawn F. Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E9–30216 Filed 12–18–09; 8:45 am]

BILLING CODE 4830–01–P

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