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OFFICE OF MANAGEMENT AND BUDGET

2 CFR Part 176

Requirements for Implementing Sections 1512, 1605, and 1606 of the American Recovery and Reinvestment Act of 2009 for Financial Assistance Awards

AGENCY: Office of Federal Financial Management, Office of Management and Budget (OMB).

ACTION: Amendments of interim final guidance.

SUMMARY: The Office of Federal Financial Management (OFFM) is amending certain sections of the interim final guidance at 2 CFR part 176 that pertain to international agreements. These amendments reflect changes with respect to U.S. international obligations since the publication of the interim final guidance. Public comments received in response to the initial publication of the interim final guidance will be addressed when the guidance is finalized.

DATES: The effective date of the amendments to 2 CFR part 176 (the interim final guidance) is March 25, 2010.

FOR FURTHER INFORMATION CONTACT: Marguerite Pridgen, Office of Federal Financial Management, Office of Management and Budget, e-mail: *Marguerite_E._Pridgen@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The Office of Federal Financial Management (OFFM) is amending four areas of the interim final guidance at 2 CFR part 176 that deal with international agreements. First, it makes a technical correction to section 176.90(a). Second, it changes the threshold that applies to international agreements from $7,430,000 to 7,804,000, based on a determination made by the United States Trade Representative (74 FR 68907, Dec. 29, 2009). Third, it adds Chinese Taipei (Taiwan) as a Party to the WTO Government Procurement Agreement. Fourth, it adds the Agreement between Canada and the United States of America on Government Procurement, which was signed on February 12, 2010 and enters into force on February 16, 2010, to the list of international agreements in section 176.90(b). Consequential amendments are also made to the *Appendix to Subpart B of Part 176—U.S. States, Other Sub-Federal Entities, and Other Entities Subject to U.S. Obligations under International Agreements.* The amended Appendix will be posted on the Web site of the Office of the United States Trade Representative at: *http://www.ustr.gov/trade-topics/government-procurement.* Any subsequent revisions of the Appendix will be made by the Office of the United States Trade Representative and posted on its Web site.

Debra Bond,

Deputy Controller.

■ For the reasons set forth above, the Office of Management and Budget amends 2 CFR part 176 in Subtitle A, Chapter I, as set forth below:

PART 176—AWARD TERMS FOR ASSISTANCE AGREEMENTS THAT INCLUDE FUNDS UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, PUBLIC LAW 111–5

■ 1. The authority citation for part 176 continues to read as follows:

Authority: American Recovery and Reinvestment Act of 2009, Public Law 111–5; Federal Funding Accountability and Transparency Act of 2006, (Pub. L. 109–282), as amended.

Subpart B—Buy American Requirement Under Section 1605 of the American Recovery and Reinvestment Act of 2009

■ 2. In § 176.90, revise the section heading, the introductory text, paragraphs (a), (b) introductory text, (b)(1), and (b)(3), and add paragraph (b)(4), to read as follows:

§ 176.90 Acquisitions covered under international agreements.

Section 1605(d) of the Recovery Act provides that the Buy American requirement in section 1605 shall be applied in a manner consistent with U.S. obligations under international agreements.

(a) The Buy American requirement set out in § 176.70 shall not be applied where the iron, steel, or manufactured goods used in the project are from a Party to an international agreement, listed in paragraph (b) of this section, and the recipient is required under an international agreement, described in the appendix to this subpart, to treat the goods and services of that Party the same as domestic goods and services. As of January 1, 2010, this obligation shall only apply to projects with an estimated value of $7,804,000 or more and projects that are not specifically excluded from the application of those agreements.

(b) The international agreements that obligate recipients that are covered under an international agreement to treat the goods and services of a Party the same as domestic goods and services and the respective Parties to the agreements are:

(1) The World Trade Organization Government Procurement Agreement (Aruba, Austria, Belgium, Bulgaria, Canada, Chinese Taipei (Taiwan), Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom);

* * * * *

(3) United States-European Communities Exchange of Letters (May 15, 1995): Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom; and

(4) Agreement between the Government of Canada and the Government of the United States of America on Government Procurement.

■ 3. In § 176.160, revise the definition of "Designated country" in paragraph (a), and paragraph (b)(1)(ii), to read as follows:

§ 176.160 Award term—Required Use of American Iron, Steel, and Manufactured Goods (covered under International Agreements)—Section 1605 of the American Recovery and Reinvestment Act of 2009.

* * * * *

(a) * * *

Designated country—

(1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Chinese Taipei (Taiwan), Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom;

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore);

(3) A United States-European Communities Exchange of Letters (May 15, 1995) country: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom; or

(4) An Agreement between Canada and the United States of America on Government Procurement country (Canada).

* * * * *

(b) * * *

(1) * * *

(ii) Section 1605(d), which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. The restrictions of section 1605 of the Recovery Act do not apply to designated country iron, steel, and/or manufactured goods. The Buy American requirement in section 1605 shall not be applied where the iron, steel or manufactured goods used in the project are from a Party to an international agreement that obligates the recipient to treat the goods and services of that Party the same as domestic goods and services. As of January 1, 2010, this obligation shall only apply to projects with an estimated value of $7,804,000 or more.

* * * * *

■ 4. Revise Appendix to Subpart B to read as follows:

Appendix to Subpart B of 2 CFR part 176—U.S. States, Other Sub-Federal Entities, and Other Entities Subject to U.S. Obligations Under International Agreements (as of February 16, 2010)

States	Entities covered	Exclusions	Relevant international agreements
Arizona	Executive branch agencies		—WTO GPA. —U.S.-Chile FTA. —U.S.-Singapore FTA.
Arkansas	Executive branch agencies, including universities but excluding the Office of Fish and Game.	Construction services	—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Peru TPA. —U.S.-Singapore FTA.
California	Executive branch agencies		—WTO GPA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Singapore FTA.
Colorado	Executive branch agencies		—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Peru TPA. —U.S.-Singapore FTA.
Connecticut	—Department of Administrative Services —Department of Transportation. .. —Department of Public Works. .... —Constituent Units of Higher Education.		—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
Delaware	—Administrative Services (Central Procurement Agency). —State Universities. —State Colleges.	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal.	—WTO GPA. —DR-CAFTA (except Honduras). —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
Florida	Executive branch agencies	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal.	—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Peru TPA. —U.S.-Singapore FTA.
Georgia	—Department of Administrative Services. —Georgia Technology Authority.	Beef; compost; mulch	—U.S.-Australia FTA.
Hawaii	Department of Accounting and General Services.	Software developed in the State; construction.	—WTO GPA. —DR-CAFTA (except Honduras).

States	Entities covered	Exclusions	Relevant international agreements
			—U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
Idaho	Central Procurement Agency (including all colleges and universities subject to central purchasing oversight).		—WTO GPA. —DR-CAFTA (except Honduras). —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
Illinois	—Department of Central Management Services.	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal.	—WTO GPA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Peru TPA. —U.S.-Singapore FTA. —U.S.-EC. Exchange of Letters (applies to EC Member States for procurement not covered by WTO GPA and only where the State considers out-of-State suppliers).
Iowa	—Department of General Services —Department of Transportation. —Board of Regents' Institutions (universities).	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal.	—WTO GPA. —U.S.-Chile FTA. —U.S.-Singapore FTA.
Kansas	Executive branch agencies	Construction services; automobiles; aircraft.	—WTO GPA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
Kentucky	Division of Purchases, Finance and Administration Cabinet.	Construction projects	—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
Louisiana	Executive branch agencies		—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
Maine	—Department of Administrative and Financial Services —Bureau of General Services (covering State government agencies and school construction). — Department of Transportation.	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal.	—WTO GPA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Singapore FTA.
Maryland	—Office of the Treasury —Department of the Environment. —Department of General Services.. —Department of Housing and Community Development.. —Department of Human Resources.. —Department of Licensing and Regulation.. —Department of Natural Resources.. —Department of Public Safety and Correctional Services.. —Department of Personnel. ..... —Department of Transportation. ..	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal.	—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
Massachusetts	—Executive Office for Administration and Finance. —Executive Office of Communities and Development. —Executive Office of Consumer Affairs.		—WTO GPA. —U.S.-Chile FTA. —U.S.-Singapore FTA.

States	Entities covered	Exclusions	Relevant international agreements
	—Executive Office of Economic Affairs. —Executive Office of Education. —Executive Office of Elder Affairs. —Executive Office of Environmental Affairs. —Executive Office of Health and Human Service. —Executive Office of Labor. —Executive Office of Public Safety. —Executive Office of Transportation and Construction.		
Michigan	Department of Management and Budget.	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal.	—WTO GPA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Singapore FTA.
Minnesota	Executive branch agencies		—WTO GPA. —U.S.-Chile FTA. —U.S.-Singapore FTA.
Mississippi	Department of Finance and Administration.	Services	—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Peru TPA. —U.S.-Singapore FTA.
Missouri	—Office of Administration —Division of Purchasing and Materials Management.		—WTO GPA. —U.S.-Chile FTA. —U.S.-Singapore FTA.
Montana	Executive branch agencies	Goods	—WTO GPA. —U.S.-Chile FTA. —U.S.-Singapore FTA.
Nebraska	Central Procurement Agency		—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
New Hampshire	Central Procurement Agency	Construction-grade steel (including requirements on subcontracts), motor vehicles; coal.	—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
New York	—State agencies —State university system. —Public authorities and public benefit corporations, with the exception of those entities with multi-State mandates.	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal; transit cars, buses and related equipment.	—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Peru TPA. —U.S.-Singapore FTA.
North Dakota			—U.S.-EC Exchange of Letters (applies to EC Member States and only where the State considers out-of-State suppliers).
Oklahoma	Department of Central Services and all State agencies and departments subject to the Oklahoma Central Purchasing Act.	Construction services; construction-grade steel (including requirements on subcontracts); motor vehicles; coal.	—WTO GPA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Peru TPA. —U.S.-Singapore FTA.
Oregon	Department of Administrative Services.		—WTO GPA. —DR-CAFTA (except Honduras). —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
Pennsylvania	Executive branch agencies, including: —Governor's Office. —Department of the Auditor General.. —Treasury Department. —Department of Agriculture.	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal.	—WTO GPA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Singapore FTA.

States	Entities covered	Exclusions	Relevant international agreements
	—Department of Banking. —Pennsylvania Securities Commission. —Department of Health. —Department of Transportation. —Insurance Department. —Department of Aging. —Department of Correction. —Department of Labor and Industry. —Department of Military Affairs. —Office of Attorney General. —Department of General Services. —Department of Education. —Public Utility Commission. —Department of Revenue. —Department of State. —Pennsylvania State Police. —Department of Public Welfare. —Fish Commission. —Game Commission. —Department of Commerce. —Board of Probation and Parole. —Liquor Control Board. —Milk Marketing Board. —Lieutenant Governor's Office. —Department of Community Affairs. —Pennsylvania Historical and Museum Commission. —Pennsylvania Emergency Management Agency. —State Civil Service Commission. —Pennsylvania Public Television Network. —Department of Environmental Resources. —State Tax Equalization Board. —Department of Public Welfare. —State Employees' Retirement System. —Pennsylvania Municipal Retirement Board. —Public School Employees' Retirement System. —Pennsylvania Crime Commission. —Executive Offices.		
Rhode Island	Executive branch agencies	Boats, automobiles, buses and related equipment.	—WTO GPA. —DR-CAFTA (except Honduras). —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
South Dakota	Central Procuring Agency (including universities and penal institutions).	Beef	—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
Tennessee	Executive branch agencies	Services; construction	—WTO GPA-U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Singapore FTA.
Texas	Texas Building and Procurement Commission.		—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Peru TPA. —U.S.-Singapore FTA.
Utah	Executive branch agencies		—WTO GPA. —DR-CAFTA (except Honduras). —U.S.-Australia FTA.

States	Entities covered	Exclusions	Relevant international agreements
Vermont	Executive branch agencies		—U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Peru TPA. —U.S.-Singapore FTA. —WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
Washington	Executive branch agencies, including: —General Administration. —Department of Transportation. —State Universities.	Fuel; paper products; boats; ships; and vessels.	—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.
West Virginia			—U.S.-EC Exchange of Letters (applies to EC Member States and only where the State considers out-of-State suppliers).
Wisconsin	Executive branch agencies, including: —Department of Administration. —State Correctional Institutions. —Department of Development. —Educational Communications Board. —Department of Employment Relations. —State Historical Society. —Department of Health and Social Services. —Insurance Commissioner. —Department of Justice. —Lottery Board. —Department of Natural Resources. —Administration for Public Instruction. —Racing Board. —Department of Revenue. —State Fair Park Board. —Department of Transportation. —State University System.		—WTO GPA. —U.S.-Chile FTA. —U.S.-Singapore FTA.
Wyoming	—Procurement Services Division —Wyoming Department of Transportation. —University of Wyoming.	Construction-grade steel (including requirements on subcontracts); motor vehicles; coal.	—WTO GPA. —DR-CAFTA. —U.S.-Australia FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Singapore FTA.

Other sub-federal entities	Entities covered	Exclusions	Relevant international agreements
Puerto Rico	—Department of State —Department of Justice. —Department of the Treasury. —Department of Labor and Human Resources. —Department of Natural and Environmental Resources. —Department of Consumer Affairs. —Department of Sports and Recreation.	Construction services —Department of Economic Development and Commerce.	—DR-CAFTA. —U.S.-Peru TPA.
Port Authority of New York and New Jersey.		Restrictions attached to Federal funds for airport projects; maintenance, repair and operating materials and supplies.	—WTO GPA (except Canada). —U.S.-Chile FTA. —U.S.-Singapore FTA.
Port of Baltimore		Restrictions attached to Federal funds for airport projects.	—WTO GPA (except Canada). —U.S.-Chile FTA. —U.S.-Singapore FTA.

States	Entities covered	Exclusions	Relevant international agreements
New York Power Authority		Restrictions attached to Federal funds for airport projects; conditions specified for the State of New York	—WTO GPA (except Canada). —U.S.-Chile FTA. —U.S.-Singapore FTA.
Massachusetts Port Authority			U.S.-EC Exchange of Letters (applies to EC Member States and only where the Port Authority considers out-of-State suppliers).
Boston, Chicago, Dallas, Detroit, Indianapolis, Nashville, and San Antonio.			U.S.-EC Exchange of Letters (only applies to EC Member States and where the city considers out-of-city suppliers).
Other entities	**Entities covered**	**Exclusions**	**Relevant international agreements**
Rural Utilities Service (waiver of Buy American restriction on financing for all power generation projects).	Any recipient		—WTO GPA. —DR-CAFTA. —NAFTA. —U.S.-Australia FTA. —U.S.-Bahrain FTA. —U.S.-Chile FTA. —U.S.-Morocco FTA. —U.S.-Oman FTA. —U.S.-Peru TPA. —U.S.-Singapore FTA.
Rural Utilities Service (waiver of Buy American restriction on financing for telecommunications projects).	Any recipient		—NAFTA. —U.S.-Israel FTA.
U.S. Department of Agriculture, Rural Utilities Services, *Water and Waste Disposal Programs* (exclusion of Canadian iron, steel and manufactured products from domestic purchasing restriction in Section 1605 of American Recovery and Reinvestment Act of 2009).	Any recipient		U.S.-Canada Agreement.
U.S. Department of Agriculture, Rural Housing Service, *Community Facilities Program* (exclusion of Canadian iron, steel and manufactured products from domestic purchasing restriction in Section 1605 of American Recovery and Reinvestment Act of 2009).	Any recipient		U.S.-Canada Agreement.
U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, *Energy Efficiency and Conservation Block Grants* (exclusion of Canadian iron, steel and manufactured products from domestic purchasing restriction in Section 1605 of American Recovery and Reinvestment Act of 2009).	Any recipient		U.S.-Canada Agreement.
U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, *State Energy Program* (exclusion of Canadian iron, steel and manufactured products from domestic purchasing restriction in Section 1605 of American Recovery and Reinvestment Act of 2009 (ARRA).	Any recipient		U.S.-Canada Agreement.

States	Entities covered	Exclusions	Relevant international agreements
U.S. Department of Housing and Urban Development, Office of Community Planning and Development, *Community Development Block Grants Recovery* (CDBG–R) (exclusion of Canadian iron, steel and manufactured products from domestic purchasing restriction in Section 1605 of American Recovery and Reinvestment Act of 2009).	Any recipient		U.S.-Canada Agreement.
U.S. Department of Housing and Urban Development, Office of Public and Indian Housing, *Public Housing Capital Fund* (exclusion of Canadian iron, steel and manufactured products from domestic purchasing restriction in Section 1605 of American Recovery and Reinvestment Act of 2009).	Any recipient		U.S.-Canada Agreement.
U.S. Environmental Protection *Clean Water and Drinking Water State Revolving Funds* Agency for projects funded by reallocated ARRA funds where the contracts are signed after February 17, 2010 (exclusion of Canadian iron, steel and manufactured products from domestic purchasing restriction in Section 1605 of American Recovery and Reinvestment Act of 2009).	Any recipient		U.S.-Canada Agreement.

General Exceptions: The following restrictions and exceptions are excluded from U.S. obligations under international agreements:

1. The restrictions attached to Federal funds to States for mass transit and highway projects.

2. Dredging.

The World Trade Organization Government Procurement Agreement (WTO GPA) Parties: Aruba, Austria, Belgium, Bulgaria, Canada, Chinese Taipei (Taiwan), Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom.

The Free Trade Agreements and the respective Parties to the agreements are:

(1) Dominican Republic-Central America-United States Free Trade Agreement (DR–CAFTA): Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua;

(2) North American Free Trade Agreement (NAFTA): Canada and Mexico;

(3) United States-Australia Free Trade Agreement (U.S.-Australia FTA);

(4) United States-Bahrain Free Trade Agreement (U.S.-Bahrain FTA);

(5) United States-Chile Free Trade Agreement (U.S.-Chile FTA);

(6) United States-Israel Free Trade Agreement (U.S.-Israel FTA);

(7) United States-Morocco Free Trade Agreement (U.S.-Morocco FTA);

(8) United States-Oman Free Trade Agreement (U.S.-Oman FTA);

(9) United States-Peru Trade Promotion Agreement (U.S.-Peru TPA); and

(10) United States-Singapore Free Trade Agreement (U.S.-Singapore FTA).

United States-European Communities Exchange of Letters (May 30, 1995) (U.S.-EC Exchange of Letters) applies to EC Member States: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom.

Agreement between the Government of Canada and the Government of the United States of America on Government Procurement (Feb. 10, 2010) (U.S.-Canada Agreement): Applies only to Canada.

[FR Doc. 2010–6548 Filed 3–24–10; 8:45 am]

BILLING CODE P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 360

RIN 3064–AD55

Transitional Safe Harbor Protection for Treatment by the Federal Deposit Insurance Corporation as Conservator or Receiver of Financial Assets Transferred by an Insured Depository Institution in Connection With a Securitization or Participation

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule; correction.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is correcting a final rule that appeared in the **Federal Register** of March 18, 2010 (75 FR 12962). The final rule added a new provision in order to continue for a limited time the safe harbor provision for securitizations that would be affected by recent changes to generally accepted accounting principles. In effect, the Final Rule permanently "grandfathers" all securitizations for which financial assets were transferred or, for revolving trusts, for which securities were issued prior to September 30, 2010 so long as those securitizations complied with the

preexisting requirements under generally accepted accounting principles in effect prior to November 15, 2009.

DATES: Effective March 18, 2010.

FOR FURTHER INFORMATION CONTACT: Michael Krimminger, Office of the Chairman, 202–898- 8950; George Alexander, Division of Resolutions and Receiverships, 202 898–3718; or R. Penfield Starke, Legal Division, 703–562–2422, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: In the final rule published in the **Federal Register** of March 18, 2010 (75 FR 12962), an incorrect date was given for the publication of the interim rule published on November 17, 2009. and therefore the following corrections are made:

1. On page 12963 the **DATES** section is corrected to read:

Effective March 18, 2010, the Board of Directors of the Federal Deposit Insurance Corporation confirms as final with changes, the interim rule published on November 17, 2009 (74 FR 59066) .

2. On page 12963, the final sentence of the Background statement is corrected to read:

In response to industry concerns, the FDIC published an Interim Final Rule on November 17, 2009 (74 FR 59066) that addressed securitizations (and participations) issued before March 31, 2010.

3. On page 12965, the amendatory language statement is corrected to read:

For the reasons stated above, the Board of Directors of the Federal Deposit Insurance Corporation confirms as final, the interim rule amending chapter III of title 12 of the Code of Federal Regulations by amending Part 360 published on November 17, 2009 (74 FR 59066) with the following changes:

Dated at Washington, DC, this 19th day of March 2010.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2010–6555 Filed 3–24–10; 8:45 am]

BILLING CODE 6714–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

RIN 3245–AF98

Disaster Assistance Loan Program

AGENCY: U. S. Small Business Administration (SBA).

ACTION: Direct final rule.

SUMMARY: SBA is amending its disaster assistance regulations to reflect statutory changes to the disaster assistance program contained in the Food, Conservation, and Energy Act of 2008 (the Farm Act). Except for several grammatical corrections, this direct final rule conforms the regulations to the Farm Act by adopting the new statutory requirements without change.

DATES: This rule is effective May 10, 2010 without further action, unless significant adverse comment is received by April 26, 2010. If significant adverse comment is received, SBA will publish a timely withdrawal of the rule in the **Federal Register.**

ADDRESSES: *You may submit comments, identified by RIN 3245–AF98, by any of the following methods:* (1) Federal Rulemaking Portal: *http://www.regulations.gov,* following the specific instructions for submitting comments; (2) FAX (202) 481–2226; or E-mail: *James.Rivera@sba.gov;* or (3) Mail/Hand Delivery/Courier: James E. Rivera, Associate Administrator for Disaster Assistance, 409 3rd Street, SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Roger B. Garland, Office of Disaster Assistance, 202–205–6734 or *Roger.Garland@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 7(b) of the Small Business Act, 15 U.S.C. 636(b), authorizes SBA to make long-term disaster loans to homeowners, renters, businesses, and non-profit organizations that have been adversely affected by a declared disaster. The Farm Act, Public Law 110–246, enacted June 18, 2008, amended the Small Business Act and authorized changes to make the disaster assistance program more accessible to disaster victims by raising the statutory loan limit for loans to businesses, increasing the collateral threshold, and amending the basis for calculation of eligibility for post-disaster mitigation funds. The legislation also amended the statutory definition of disaster to include ice storms and blizzards, deferred the additional payment on net earnings for certain business loans for five years, and extended eligibility for economic injury disaster loan assistance to non-profit organizations. Finally, the legislation amended the date for determining the applicant's status as a major source of employment for Military Reserve Economic Injury Disaster Loan applicants. The regulatory amendments described below reflect these statutory changes.

Section-by-Section Analysis

SBA is amending section 123.11 to reflect that SBA will not require a borrower to pledge collateral on a disaster home loan or a physical disaster business loan of $14,000 or less. The present threshold is $10,000, so the Farm Act raised the amount by $4,000. As contemplated by the statute, the regulation will also authorize the Administrator to increase the $14,000 threshold in the event of a major disaster.

SBA is amending sections 123.202(a) and 123.202(b) to reflect the increased aggregate loan limit for businesses and non-profit organizations from $1.5 million to $2 million. The change applies to both physical and economic injury disaster loans to the same borrower, together with its affiliates. The loan limit may be waived if the borrower is a major source of employment as described in the section presently. SBA is adding a new paragraph (e) to section in 123.202 which, as authorized by the Farm Act, states that a higher loan limit may be established by the Administrator for a particular disaster based on appropriate economic indicators for the region in which that disaster occurred.

SBA is adding a new paragraph (c) to section 123.203(c) to describe the supplementary payment, based on a percentage of net earnings that may be required to reduce the balance of a disaster loan. To reflect the recent statutory changes, SBA specifies that the supplementary payment, if applicable, will not be due until 5 years after repayment of the loan commences. SBA is also correcting a grammatical error in the second sentence in section 123.203(a), by changing the word "have" to "has."

SBA is changing the method of calculating eligibility for additional loan funds for mitigation measures that would protect the damaged property from possible future disasters. Currently, eligibility is calculated based on the approved loan amount. The Farm Act authorizes SBA to calculate eligibility based on the verified loss amount instead. Accordingly, SBA is changing sections 123.105(a)(4), 123.107 and 123.204 to reflect that, for mitigation purposes, the borrower can request an increase in the approved loan by the lesser of the cost of the mitigation measure or up to 20 percent of the verified loss before deducting compensation from other sources. For home loans only, to remain consistent with the regulatory limits placed on disaster home loan amounts generally, mitigation is limited to a maximum of

$200,000 in sections 123.105(a)(4) and 123.107.

SBA is amending section 123.300 to designate private non-profit organizations as eligible for economic injury disaster loan assistance and to define an eligible private non-profit organization. SBA is adopting FEMA's definition of a private non-profit organization set forth in 44 CFR 206.221(f). For consistency, SBA is also amending section 123.301 to revise the eligibility exclusion for non-profit or charitable organizations to say that such organizations are ineligible unless they are an eligible private non-profit organization. SBA is also amending 123.300(b) to remove the exception for applications filed under declarations for hurricanes Katrina, Rita, and Wilma, since the declarations for these disasters have closed, and further applications are not anticipated. SBA is also correcting a spelling error in section 123.300(b), changing "principle" to "principal".

SBA is amending section 123.507 to amend the date used to determine if an applicant business qualifies as a major source of employment (MSE) for Military Reservist Economic Injury Disaster Loan (MREIDL) assistance. SBA may waive the $2 million limit for MREIDL assistance if the applicant is an MSE. The Farm Act authorizes SBA to waive the limit if the MREIDL applicant is an MSE, or if it has become an MSE as a result of changed economic circumstances. SBA has previously determined whether an applicant business qualified as an MSE based on its status on the date on which the disaster commenced. As a result of the Farm Act changes, SBA may make the determination based on the MREIDL applicant's status on or after the date the disaster commenced.

The Farm Act also contained a statutory change that codifies SBA existing practice of treating ice storms and blizzards as disasters. Because ice storms and blizzards have previously qualified under SBA's existing regulations as disasters for purposes of both physical as well as economic injury disaster loan assistance, SBA has determined that no regulatory amendment is necessary to reflect this statutory change.

Consideration of comments: SBA believes that this rule is routine and non-controversial since it merely implements changes required by statute, and SBA anticipates no significant adverse comments to this rulemaking. If SBA receives any significant adverse comments, it will publish a timely withdrawal of this direct final rule.

Compliance With Executive Orders 12866, 12988, 13132 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule does not constitute a significant regulatory action under Executive Order 12866.

Executive Order 12988

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

The final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, SBA determines that this final rule has no federalism implications warranting preparation of a federalism assessment.

Paperwork Reduction Act

SBA has determined that this final rule does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601, requires administrative agencies to consider the effect of their actions on small entities, including small businesses. According to the RFA, when an agency issues a rule, the agency must prepare an analysis to determine whether the impact of the rule will have a significant economic impact on a substantial number of small entities. However, the RFA allows an agency to certify a rule in lieu of preparing an analysis, if the rulemaking is not expected to have a significant impact on a substantial number of small entities. This rule only makes conforming amendments to recent legislation on the disaster loan program, and does not implement new agency policies. Some of these amendments will affect small entities; however SBA certifies that these amendments will not have a significant economic impact on a substantial number of such entities.

List of Subjects in 13 CFR Part 123

Disaster assistance, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

■ For the reasons set forth in the preamble, the SBA amends 13 CFR part 123 as follows:

PART 123—DISASTER LOAN PROGRAM

■ 1. The authority citation for part 123 is revised to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(b), 636(c); Pub. L. 102–395, 106 Stat. 1828; Pub. L. 103–75, 107 Stat. 739; Pub. L. 106–50, 113 Stat. 245; Pub. L. 110–246, 122 Stat. 1651.

■ 2. Amend § 123.11 by revising the first sentence of the introductory paragraph, and the second sentence of paragraph (a) to read as follows:

§ 123.11 Does SBA require collateral for any of its disaster loans?

Generally, SBA will not require that you pledge collateral to secure a disaster home loan or a physical disaster business loan of $14,000 or less (or such higher amount as the Administrator determines appropriate in the event the President declares a major disaster), or an economic injury disaster loan of $5,000 or less. * * *

(a) * * * In deciding whether collateral is required, SBA will add up all physical disaster loans to see if they exceed $14,000 and all economic injury disaster loans to see if they exceed $5,000.

* * * * *

■ 3. Amend § 123.105 by revising paragraph (a)(4) to read as follows:

§ 123.105 How much can I borrow with a home disaster loan and what limits apply on use of funds and repayment terms?

(a) * * *

(4) 20 percent of the verified loss (not including refinancing), before deduction compensation from other sources, up to a maximum of $200,000 (see § 123.107).

* * * * *

■ 4. Revise § 123.107 to read as follows:

§ 123.107 How much can I borrow for post-disaster mitigation for my home?

For mitigation measures implemented after a disaster has occurred, you can request that the approved home disaster loan amount be increased by the lesser of the cost of the mitigation measure, or up to 20 percent of the verified loss (before deducting compensation from other sources), to a maximum of $200,000.

■ 5. Amend § 123.202 by revising paragraphs (a), (b) introductory text,

(b)(1) and adding a new paragraph (e) to read as follows:

§ 123.202 How much can my business borrow with a physical disaster loan?

(a) Disaster business loans, including both physical disaster and economic injury loans to the same borrower, together with its affiliates, cannot exceed the lesser of the uncompensated physical loss and economic injury or $2 million. Physical disaster loans may include amounts to meet current building code requirements. If your business is a major source of employment, SBA may waive the $2 million limitation. A major source of employment is a business concern that has one or more locations in the disaster area, on or after the date of the disaster, which:

* * * * *

(b) SBA will consider waiving the $2 million loan limit for a major source of employment only if:

(1) Your damaged location or locations are out of business or in imminent danger of going out of business as a result of the disaster, and a loan in excess of $2 million is necessary to reopen or keep open the damaged locations in order to avoid substantial unemployment in the disaster area; and

* * * * *

(e) The SBA Administrator may increase the $2 million loan limit for disaster business physical and economic injury loans under an individual disaster declaration based on appropriate economic indicators for the region(s) in which the disaster occurred. SBA will publish the increased loan amount in the **Federal Register**.

■ 6. Amend § 123.203 by revising the second sentence of paragraph (a) and adding new paragraph (c) to read as follows:

§ 123.203 What interest rate will my business pay on a physical disaster business loan and what are the repayment terms?

(a) * * * If your business, together with its affiliates and principal owners, has credit elsewhere, your interest rate is set by a statutory formula, but will not exceed 8 percent per annum. * * *

* * * * *

(c) For certain disaster business physical and economic injury loans, an additional payment, based on a percentage of net earnings, will be required to reduce the balance of the loan. This additional payment will not be required until 5 years after repayment begins.

■ 7. Revise § 123.204 to read as follows:

§ 123.204 How much can your business borrow for post-disaster mitigation?

For mitigation measures implemented after a disaster has occurred, you can request an increase in the approved physical disaster business loan by the lesser of the cost of the mitigation measure, or up to 20 percent of the verified loss, before deducting compensation from other sources, to repair or replace your damaged business.

■ 8. Amend § 123.300 by revising paragraph (b), (c)(3) and adding new paragraph (d) to read as follows:

§ 123.300 Is my business eligible to apply for an economic injury disaster loan?

* * * * *

(b) Economic injury disaster loans are available only if you were a small business (as defined in part 121 of this chapter) or a private non-profit organization when the declared disaster commenced, you and your affiliates and principal owners (20% or more ownership interest) have used all reasonably available funds, and you are unable to obtain credit elsewhere (see § 123.104).

(c) * * *

(3) Producer cooperatives; and

(d) An eligible private non-profit organization is a non-governmental agency or entity that currently has:

(1) An effective ruling letter from the U.S. Internal Revenue Service, granting tax exemption under sections 510(c), (d), or (e) of the Internal Revenue Code of 1954, or

(2) Satisfactory evidence from the State that the non-revenue producing organization or entity is a non-profit one organized or doing business under State law.

■ 9. Amend § 123.301 by revising paragraph (b) to read as follows:

§ 123.301 When would my business not be eligible to apply for an economic injury disaster loan?

* * * * *

(b) A non-profit or charitable concern, other than a private non-profit organization;

* * * * *

■ 10. Amend § 123.507 by revising the introductory paragraph and paragraph (a) to read as follows:

§ 123.507 Under what circumstances will SBA consider waiving the $2 million loan limit?

SBA will consider waiving the $2 million limit if you can certify to the following conditions and SBA approves of such certification based on the information supplied in your application:

(a) Your small business is a major source of employment. A major source of employment is a business concern that, on or after the date of the disaster:

* * * * *

Dated: March 5, 2010.

Karen G. Mills,

Administrator.

[FR Doc. 2010–6430 Filed 3–24–10; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0274; Directorate Identifier 2010–NM–055–AD; Amendment 39–16248; AD 2010–07–04]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 and Model ERJ 190 Airplanes

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

ACTION: Final rule; request for comments.

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

It has been determined that due to an intermittent communication between AMS [Air Management System] controller cards and both Secondary Power Distribution Assemblies (SPDAs) the message "RECIRC SMK DET FAIL" is displayed in the Engine Indication and Crew Alerting System (EICAS). This communication failure could result in loss of automatic activation of engine inlet ice protection system when in ice condition. In this situation the caution messages "A–I Eng 1 Fail" and "A–I Eng 2 Fail" will be displayed and if the flight crews do not follow the associated procedures ice may accrete in the engines inlet and cause a dual engine shut down.

* * * * *

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective April 9, 2010.

We must receive comments on this AD by May 10, 2010.

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

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

• *Fax:* (202) 493–2251.

• *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

• *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Cindy Ashforth, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2768; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directives 2010–01–01 and 2010–01–02, both effective January 31, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> It has been determined that due to an intermittent communication between AMS [Air Management System] controller cards and both Secondary Power Distribution Assemblies (SPDAs) the message "RECIRC SMK DET FAIL" is displayed in the Engine Indication and Crew Alerting System (EICAS). This communication failure could result in loss of automatic activation of engine inlet ice protection system when in ice condition. In this situation the caution messages "A–I Eng 1 Fail" and "A–I Eng 2 Fail" will be displayed and if the flight crews do not follow the associated procedures ice may accrete in the engines inlet and cause a dual engine shut down.
>
> * * * * *

The required action includes revising the Limitations section of the airplane flight manual to prohibit dispatch with message "RECIRC SMK DET FAIL" displayed on the ground unless troubleshooting action confirms the message has not been triggered due to a failure of an AMS controller card. You may obtain further information by examining the MCAI in the AD docket.

FAA's Determination and Requirements of This AD

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

Differences Between the AD and the MCAI or Service Information

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

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because an intermittent communication failure between AMS controller cards and both SPDAs could result in the loss of automatic activation of the engine inlet ice protection system when in icing conditions. In this situation, the caution messages "A–I Eng 1 Fail" and "A–I Eng 2 Fail" will be displayed. If the flight crews do not follow the associated procedures, ice may accrete in the engines' inlet and cause a dual engine shut down. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0274; Directorate Identifier 2010–NM–055–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–07–04 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–16248. Docket No. FAA–2010–0274; Directorate Identifier 2010–NM–055–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective April 9, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170–100 LR, –100 STD, –100 SE, and –100 SU airplanes; Model ERJ 170–200 LR, –200 SU, and –200 STD airplanes; Model ERJ 190–100 STD, –100 LR, –100 ECJ, and –100 IGW airplanes; and Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes; certificated in any category; equipped with Air Management System (AMS) controller cards having part number 1001050–1–YYY or 1001050–2–YYY containing software version Black Label 08 or lower installed.

Subject

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

Reason

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

It has been determined that due to an intermittent communication between AMS [Air Management System] controller cards and both Secondary Power Distribution Assemblies (SPDAs) the message "RECIRC SMK DET FAIL" is displayed in the Engine Indication and Crew Alerting System (EICAS). This communication failure could result in loss of automatic activation of engine inlet ice protection system when in ice condition. In this situation the caution messages "A–I Eng 1 Fail" and "A–I Eng 2 Fail" will be displayed and if the flight crews do not follow the associated procedures ice may accrete in the engines inlet and cause a dual engine shut down.

* * * * *

The required action includes revising the Limitations section of the airplane flight manual to prohibit dispatch with message "RECIRC SMK DET FAIL" displayed on the ground unless troubleshooting action confirms the message has not been triggered due to a failure of an AMS controller card.

Compliance

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

Actions

(g) Within 10 days after the effective date of this AD, revise the Limitations section of the airplane flight manual (AFM) to include the following statement. This may be done by inserting a copy of this AD in the AFM.

"Dispatch with the message 'RECIRC SMK DET FAIL' displayed on the ground is prohibited unless troubleshooting action confirms the message has not been triggered due to a failure of an AMS controller card."

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

Note 2: The limitation and procedure specified in paragraph (g) of this AD is an interim solution until a final action is identified, at which time the FAA might consider further rulemaking.

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Cindy Ashforth, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2768; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

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

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

(i) *Special Flight Permits:* We are prohibiting the issuance of special flight permits to operate the airplane to a location to replace the AMS controller card, unless the following condition is met: The flight crew must manually engage the engine anti-ice system if icing conditions occur during any ferry flight.

Related Information

(j) Refer to MCAI Brazilian Airworthiness Directives 2010–01–01 and 2010–01–02, both effective January 31, 2010, for related information.

Material Incorporated by Reference

(k) None.

Issued in Renton, Washington, on March 16, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–6518 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 740, 742, 748, and 774

[Docket No. 0906041008–91452–01]

RIN 0694–AE64

Revisions to the Export Administration Regulations To Enhance U.S. Homeland Security: Addition of Three Export Control Classification Numbers (ECCNs) and License Review Policy

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) by revising controls to advance U.S. homeland security and foreign policy interests. The revisions include language that should facilitate public understanding of how concealed object detection equipment is treated for purposes of U.S. Government export controls, in particular by detailing the

technical parameters of concealed object detection equipment that is subject to the Export Administration Regulations. These amendments reflect issues identified by an interagency working group that is reviewing export control issues related to homeland security. The interagency working group is made up of representatives from the Departments of Commerce, Defense, Homeland Security and State. The purpose of the interagency working group is to ensure that appropriate export controls are in place to protect U.S. export control interests for homeland security related items, while at the same time facilitating the development, production and use of items that will enhance U.S. homeland security and the homeland security of key U.S. allies. To help accomplish these objectives, this rule adds three new entries to the Commerce Control List (CCL) to control certain concealed object detection equipment operating in the frequency range from 30 GHz to 3000 GHz and related software and technology. In addition, to facilitate the export and reexport of these items to certain trusted destinations and end-users, this rule adds new license review criteria to the EAR to create a presumption of approval for certain cooperating countries provided the items are being made to a government end-user or to a person designated by the government end-user pursuant to contract.

DATES: *Effective Date:* This rule is effective March 25, 2010. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

ADDRESSES: You may submit comments, identified by RIN 0694–AE64, by any of the following methods:

E-mail: publiccomments@bis.doc.gov. Include "RIN 0694–AE64" in the subject line of the message.

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

Mail or Hand Delivery/Courier: Timothy Mooney, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, *Attn:* RIN 0694–AE64.

Send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by e-mail to *Jasmeet_K._Seehra@omb.eop.gov,* or by fax to (202) 395–7285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230. Comments on this collection of information should be submitted separately from comments on the final rule (*i.e.,* RIN 0694–AE64)—all comments on the latter should be submitted by one of the three methods outlined above.

FOR FURTHER INFORMATION CONTACT: Ronald Rolfe, Senior Engineer/Licensing Officer, Nuclear Missile Technology Controls Division, Office of Nonproliferation and Treaty Compliance, telephone: (202) 482–4563.

SUPPLEMENTARY INFORMATION:

Background

The Export Administration Regulations (EAR) protect the national security and foreign policy interests of the United States, which includes protecting the homeland security interests of the United States. BIS has previously adapted the EAR to address homeland security related export control issues through measures such as expanding the Entity List to add § 744.11 (License Requirements that Apply to Entities Acting Contrary to the National Security or Foreign Policy Interests of the United States to the EAR), see 73 FR 49311, Aug. 21, 2008, and adding restrictions on certain designated persons in § 744.8 (Restrictions on exports and reexports to persons designated pursuant to Executive Order 13382—Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters), see 74 FR 2355, Jan. 15, 2009. An interagency working group on homeland security export control issues, composed of representatives from the Departments of Commerce, Defense, Homeland Security, and State, has identified additional areas where changes should be made to the EAR. This rule implements the first set of changes identified by the interagency working group by adding language to facilitate public understanding of how concealed object detection equipment is treated for purposes of U.S. Government export controls in particular by detailing the technical parameters of concealed object detection equipment that is subject to the Export Administration Regulations. These changes to the EAR are also in the foreign policy interest of the United States.

Development, Production and Procurement of Homeland Security Items

The Department of Homeland Security (DHS) has research and development (R&D) and procurement programs that are used to develop, produce and procure items for homeland security. These R&D and procurement activities include the use of various government agencies, both within DHS and outside of DHS, along with various private sector contractors. The U.S. Government also maintains international cooperative homeland security agreements with certain countries. These agreements facilitate collaborative efforts with partner countries to develop, produce and deploy homeland security items. The U.S. Government has agreements with the following nine countries: Australia, Canada, France, Germany, Israel, Mexico, Singapore, Sweden, and the United Kingdom. The U.S. Government has pending agreements with the European Union (nonbinding implementing arrangement only), the Netherlands, New Zealand and Japan.

CCL Based Controls Need To Evolve To Keep Pace With Homeland Security Innovations

The interagency working group on homeland security related export control issues is working to identify any areas in which CCL-based controls may not control DHS-related innovations at an appropriate level. This rule addresses one such area by adding three new entries to the Commerce Control List (CCL) to control certain concealed object detection equipment operating in the frequency range from 30 GHz to 3000 GHz and related software and technology. Specifically, this rule makes the following changes to the Export Administration Regulations:

(1) In Supplement No. 1 to part 774, the Commerce Control List (CCL), this rule adds three new Export Control Classification Numbers (ECCNs) 2A984, 2D984 and 2E984. These three new ECCNs will be subject to Regional Stability (RS 2) and Anti-terrorism (AT 1) controls on the CCL. BIS worked with the Departments of State, Defense and Homeland Security to develop these new controls.

ECCN 2A984 controls concealed object detection equipment operating in the frequency range from 30 GHz to 3000 GHz and having a spatial resolution of 0.5 milliradian up to and including 1 milliradian at a standoff distance of 100 meters. A "Note" to this ECCN entry clarifies that concealed object detection equipment includes but is not limited to equipment for screening people, documents, baggage, other personal effects, cargo and/or mail. A "Technical Note" to this ECCN entry clarifies that the range of frequencies span what is generally

considered as the millimeter-wave, submillimeter-wave and terahertz frequency regions.

ECCN 2A984 includes references to make the public aware of "Related Controls" for these types of concealed object detection equipment. Specifically, ECCN 2A984 specifies the following three "Related Controls": (1) Concealed object detection equipment operating in the frequency range from 30 GHz to 3000 GHz and having a spatial resolution less than 0.5 milliradian (a lower milliradian number means a more accurate image resolution) at a standoff distance of 100 meters is under the export licensing authority of the U.S. Department of State (22 CFR parts 120 through 130). (2) Concealed object detection equipment operating in the frequency range from 30 GHz to 3000 GHz and having a spatial resolution greater than 1 milliradian (a higher milliradian number means a less accurate image resolution) at a standoff distance of 100 meters is designated as EAR99. (3) See ECCNs 2D984 and 2E984 for related software and technology controls.

ECCN 2D984 controls software "required" for the "development," "production" or "use" of concealed object detection equipment controlled by 2A984.

ECCN 2E984 controls technology "required" for the "development," "production" or "use" of equipment controlled by 2A984 or "required" for the "development" of software controlled by 2D984.

(2) This rule amends two existing ECCNs to conform with the three new ECCNs added to the CCL with this final rule. Specifically:

ECCN 2E001 is amended by revising the heading of the ECCN to clarify that this ECCN entry does not include technology for 2A984, which will be controlled under new ECCN 2E984, as described above.

ECCN 2E002 is amended by revising the heading of the ECCN to clarify that this ECCN entry does not include technology for 2A984, which will be controlled under new ECCN 2E984, as described above.

(3) In part 740 (License Exceptions), this rule expands one of the general restrictions on the use of license exceptions under § 740.2 (Restrictions on all License Exceptions) by adding three additional ECCNs that are included in the scope of the general restrictions. Specifically, this rule adds ECCNs 2A984, 2D984 and 2E984 to paragraph (a)(8) of § 740.2. Prior to publication of this rule, paragraph (a)(8) of § 740.2 only applied to ECCNs 2A983, 2D983 and 2E983. With the publication of this rule, paragraph (a)(8) of § 740.2 will include ECCNs 2A983, 2A984, 2D983, 2D984, 2E983 and 2E984. Because of this general restriction, items controlled under ECCNs 2A983, 2A984, 2D983, 2D984, 2E983 or 2E984 are not eligible for export pursuant to any license exception unless the license exception is one of those specified in paragraph (a)(8)(i), (ii) or (iii).

Lastly, as a technical correction to a final rule that was published in July 2004, this rule removes an incorrect cross reference in paragraph (a)(8)(ii) that referenced a paragraph in License Exception GOV (*i.e.,* § 740.11(b)(2)(v)) that does not exist. This inadvertent cross reference was added to the EAR on July 30, 2004 (69 FR 46070).

(4) In § 740.10 (Servicing and replacement of parts and equipment (RPL)), this rule expands the scope of paragraph (c) (Special Recordkeeping Requirements: ECCNs 2A983 and 2D983) by adding new ECCNs 2A984 and 2D984 to these special record keeping requirements. Specifically, in addition to any other recordkeeping requirements set forth elsewhere in the EAR, exporters are required to maintain records, as specified in this section, for any items exported or reexported pursuant to License Exception RPL to repair or service previously legally exported or reexported items controlled under ECCNs 2A983, 2A984, 2D983 and 2D984. Requirements for what additional information needs to be kept are specified under paragraph (c).

(5) In § 740.13 (Technology and software—unrestricted (TSU)), this rule expands the scope of paragraph (f)(Special Recordkeeping Requirements: ECCNs 2D983 and 2E983) by adding new ECCNs 2D984 and 2E984 to these special record keeping requirements. Specifically, in addition to any other recordkeeping requirements set forth elsewhere in the EAR, exporters are required to maintain records, as specified in this paragraph, when exporting operation software or technology controlled under ECCNs 2D983, 2D984, 2E983, and 2E984, respectively, under License Exception TSU. Records maintained pursuant to this section may be requested at any time by an appropriate BIS official as set forth in § 762.7 of the EAR. Requirements for what additional information needs to be kept are specified under paragraph (f).

(6) In part 742 (Control Policy—CCL Based Controls), this rule adds a new license review policy in § 742.6 (Regional Stability), to facilitate the export of items classified under ECCNs 2A984, 2D984 and 2E984 that are being exported or reexported to certain trusted destinations and end-users. Specifically, this new license review policy states that applications to export and reexport items controlled under ECCNs 2A984, 2D984 and 2E984 will be reviewed under a presumption of approval when exported or reexported to Austria, Cyprus, Finland, Ireland, Israel, Malta, Mexico, Singapore or Sweden, provided the items are being made to a government end-user or to a person designated by the government end-user pursuant to contract. License applications to export to a designated person must include a statement from the government end-user that the contractor is so designated.

This license review policy specifically names Austria, Cyprus, Finland, Ireland, Israel, Malta, Mexico, Singapore and Sweden because, under § 742.6(a)(4)(i), as indicated in the CCL and in RS Column 2 of the Country Chart (see Supplement No. 1 to part 738 of the EAR), a license is not required to export items controlled for RS Column 2 to Australia, Japan, New Zealand, and countries in the North Atlantic Treaty Organization (NATO). Implementing this license review policy for Austria, Cyprus, Finland, Ireland, Israel, Malta, Mexico, Singapore and Sweden will therefore facilitate the export and reexport of items controlled under ECCNs 2A984, 2D984 and 2E984 to all of the countries that currently maintain international cooperative homeland security agreements or are party to an implementing arrangement with the United States.

This new licensing policy for ECCNs 2A984, 2D984 and 2E984 differs from the licensing policy for the other RS Column 2 controlled items listed under § 742.6(a)(4)(i). Applications to export or reexport any other RS Column 2 controlled items listed in § 742.6(a)(4)(i) to Austria, Cyprus, Finland, Ireland, Israel, Malta, Mexico, Singapore and Sweden will generally be considered favorably on a case-by-case basis unless there is evidence that the export or reexport would contribute significantly to the destabilization of the region to which the equipment is destined. The license review policy for any destination other than for Austria, Cyprus, Finland, Ireland, Israel, Malta, Mexico, Singapore and Sweden (*i.e.,* other countries subject to an RS Column 2 license requirement) for the new ECCNs will be the same as other RS Column 2 controlled items listed under § 742.6(a)(4)(i), meaning applications to export or reexport items controlled by ECCNs 2A984, 2D984 and 2E984 will generally be considered favorably on a case-by-case basis unless there is evidence that the export or reexport

would contribute significantly to the destabilization of the region to which the equipment is destined.

(7) Also in § 742.6, this rule revises paragraph (c) (Contract Sanctity Date) by redesignating paragraph (c) as paragraph (c)(1) and adding a new paragraph (c)(2) to provide contract sanctity provisions for the three new ECCNs added to the CCL with this rule: ECCNs 2A984, 2D984 and 2E984. These new contract sanctity provisions will be applicable as of March 19, 2010. This contract sanctity date applies only to items controlled under ECCNs 2A984, 2D984 and 2E984 destined for countries not listed in Country Group E (Supplement 1 to part 740).

(8) In §§ 742.9 (Syria), 742.10 (Sudan) and 742.19 (North Korea), under paragraph (b) (Licensing Policy) in each of these sections, this rule adds three new paragraphs under paragraph (b) to indicate the licensing policy for the three new ECCNs added to the CCL with this rule: ECCNs 2A984, 2D984 and 2E984. These new paragraphs indicate that applications for export and reexport to all end-users in these three countries (Syria, Sudan, and North Korea) of items controlled under ECCNs 2A984, 2D984 and 2E984 will generally be denied.

(9) In Supplement No. 2 to part 742 (Anti-Terrorism Controls: North Korea, Syria and Sudan Contract Sanctity Dates and Related Policies), to conform with the contract sanctity provisions added to paragraph (b) in §§ 742.9, 742.10 and 742.19, as described above, this rule adds new contract sanctity provisions under paragraph (c) of Supplement No. 2 for the three ECCNs added to the CCL with this rule: ECCNs 2A984, 2D984 and 2E984. Specifically, this rule adds new paragraphs (c)(46), (c)(47) and (c)(48) to Supplement No. 2 to provide guidance to the public on the license review policy for ECCNs 2A984, 2D984 and 2E984 for North Korea, Syria and Sudan, respectively.

(10) In Supplement No. 2 to part 748 (Unique application and submission requirements), this rule revises paragraph (k) (Regional stability controlled items) by redesignating paragraph (k) as paragraph (k)(1) and adding a new paragraph (k)(2) to provide guidance on additional support documentation that must be submitted for certain export or reexport license applications for items classified as ECCNs 2A984, 2D984 and 2E984 to certain countries and end-users. Specifically, this new paragraph states that if you are submitting a license application for the export or reexport to Austria, Cyprus, Finland, Ireland, Israel, Malta, Mexico, Singapore or Sweden of items controlled by ECCNs 2A984, 2D984 and 2E984 to a person designated by a government end-user, pursuant to contract, your license application to export to such designated person must include a statement from the government end-user that the person is so designated. A responsible official representing the designated end-user must sign the statement. "Responsible official" is defined as someone with personal knowledge of the information included in the statement, and authority to bind the designated end-user for whom they sign, and who has the power and authority to control the use and disposition of the licensed items. Statements from government end-users that the person is so designated (*i.e.,* support documents submitted in accordance with paragraph (k)(2)) must address the following three criteria for a license application to be reviewed in accordance with the license review policy in § 742.6(b)(2)(ii): (1) U.S. Department of Homeland Security (DHS) Customer Contract Number or agreement reference number, End-user name (company), complete address (including street address, city, state, country and postal code), end-user point of contact (POC); (2) Brief contract description, including DHS Project information and projected outcome; and (3) the statement shall include a certification stating "We certify that all of the representations in this statement are true and correct to the best of our knowledge and we do not know of any additional representations which are inconsistent with the above statement."

Savings Clause

Shipments of items removed from eligibility for a License Exception or export or reexport without a license (NLR) as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting or reexporting carrier, or en route aboard a carrier to a port of export or reexport, on March 25, 2010, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR) so long as they are exported or reexported before April 26, 2010. Any such items not actually exported or reexported before midnight, on April 26, 2010, require a license in accordance with this rule.

Consistent with the provisions of section 6 of the Export Administration Act of 1979, as amended (EAA), a *foreign policy report* was submitted to Congress on March 19, 2010, notifying Congress of the imposition of foreign policy-based licensing requirements reflected in this rule.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 13, 2009 (74 FR 41325 (August 14, 2009)), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act.

Rulemaking Requirements

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

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

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

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States. (See 5 U.S.C. 553(a)(1).) Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* are not applicable.

List of Subjects

15 CFR Parts 740 and 748

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

■ Accordingly, parts 740, 742, 748, and 774 of the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

PART 740—[AMENDED]

■ 1. The authority citation for 15 CFR part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

■ 2. Section 740.2 is amended:
■ a. By revising the introductory text of paragraph (a)(8); and
■ b. By revising paragraph (a)(8)(ii) to read as follows:

§ 740.2 Restrictions on all License Exceptions.

(a) * * *

(8) The item is controlled under ECCNs 2A983, 2A984, 2D983, 2D984, 2E983 or 2E984 and the License Exception is other than:

* * * * *

(ii) GOV, restricted to eligibility under the provisions of § 740.11(b)(2)(ii); or

* * * * *

■ 3. Section 740.10 is amended:
■ a. By redesignating paragraph (a)(3)(vi) as paragraph (a)(3)(vii);
■ b. By adding new paragraph (a)(3)(vi); and
■ c. By revising the heading for paragraph (c) and the introductory text of paragraph (c)(1).

The revision and addition read as follows:

§ 740.10 Servicing and replacement of parts and equipment (RPL).

* * * * *

(a) * * *

* * * * *

(3) * * *

(vi) No replacement parts may be exported to countries in Country Group E:1 if the commodity to be repaired is concealed object detection equipment controlled under ECCN 2A984 or related software controlled under ECCN 2D984.

* * * * *

(c) *Special recordkeeping requirements: ECCNs 2A983, 2A984, 2D983 and 2D984.* (1) In addition to any other recordkeeping requirements set forth elsewhere in the EAR, exporters are required to maintain records, as specified in this section, for any items exported or reexported pursuant to License Exception RPL to repair or service previously legally exported or reexported items controlled under ECCNs 2A983, 2A984, 2D983 and 2D984. The following information must be specially maintained for each such export or reexport transaction:

* * * * *

■ 4. Section 740.13 is amended by revising the introductory text of paragraph (f) to read as follows:

§ 740.13 Technology and software—unrestricted (TSU).

* * * * *

(f) *Special recordkeeping requirements: ECCNs 2D983, 2D984, 2E983 and 2E984.* In addition to any other recordkeeping requirements set forth elsewhere in the EAR, exporters are required to maintain records, as specified in this paragraph, when exporting operation software or technology controlled under ECCNs 2D983, 2D984, 2E983, and 2E984, respectively, under License Exception TSU. Records maintained pursuant to this section may be requested at any time by an appropriate BIS official as set forth in § 762.7 of the EAR. The following information must be specially maintained for each export or reexport transaction, under License Exception TSU, of operation software and technology controlled by ECCNs 2D983, 2D984, 2E983, and 2E984:

* * * * *

PART 742—[AMENDED]

■ 5. The authority citation for 15 CFR part 742 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; Sec 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009); Notice of November 6, 2009, 74 FR 58187 (November 10, 2009).

■ 6. Section 742.6 is amended:
■ a. By revising paragraph (a)(4)(i);
■ b. By revising paragraph (b)(2);
■ c. By redesignating paragraph (c) as (c)(1); and
■ d. By adding paragraph (c)(2), to read as follows:

§ 742.6 Regional stability.

(a) * * *

(4) * * *

(i) *License Requirements Applicable to Most RS Column 2 Items.* As indicated in the CCL and in RS Column 2 of the Commerce Country Chart (see Supplement No. 1 to part 738 of the EAR), a license is required to any destination except Australia, Japan, New Zealand, and countries in the North Atlantic Treaty Organization (NATO) for items described on the CCL under ECCNs 0A918, 0E918, 1A004.d, 1D003 (software to enable equipment to perform the functions of equipment controlled by 1A004.d), 1E001 (technology for the development, production, or use of 1A004.d), 2A983, 2A984, 2D983, 2D984, 2E983, 2E984, 8A918, and for military vehicles and certain commodities (specially designed) used to manufacture military equipment, described on the CCL in ECCNs 0A018.c, 1B018.a, 2B018, 9A018.a and .b, 9D018 (only software for the "use" of commodities in ECCN 9A018.a and .b), and 9E018 (only technology for the "development", "production", or "use" of commodities in 9A018.a and .b).

* * * * *

(b) * * *

(2*) Licensing policy for RS Column 2 items.* (i) Except as described in paragraph (b)(2)(ii), applications to export and reexport commodities described in paragraph (a)(4) of this section will generally be considered favorably on a case-by-case basis unless there is evidence that the export or reexport would contribute significantly to the destabilization of the region to which the equipment is destined.

(ii) Applications to export and reexport items controlled under ECCNs 2A984, 2D984 and 2E984 will be reviewed under a presumption of approval when exported or reexported to Austria, Cyprus, Finland, Ireland, Israel, Malta, Mexico, Singapore or Sweden, provided the items to be exported or reexported are being made to a government end-user or to a person designated by the government end-user pursuant to contract. License applications to export to a designated person must include a statement from the government end-user that the person is so designated. See Supplement No. 2 to part 748, paragraph (k)(2).

* * * * *

(c) * * *

(2) *Contract sanctity date:* March 19, 2010. This contract sanctity date applies

only to items controlled under ECCNs 2A984, 2D984 and 2E984 destined for countries not listed in Country Group E (Supplement 1 to part 740). See parts 742 and 746 for the contract sanctity requirements applicable to exports and reexports to countries listed in Country Group E.

* * * * *

■ 7. Section 742.9 is amended by adding paragraphs (b)(1)(xii), (b)(1)(xiii), and (b)(1)(xiv), to read as follows:

§ 742.9 Anti-terrorism: Syria.

* * * * *

(b) * * *

(1) * * *

(xii) Concealed object detection equipment controlled under ECCN 2A984.

(xiii) "Software" (ECCN 2D984) "required" for the "development", "production" or "use" of concealed object detection equipment controlled by 2A984.

(xiv) "Technology" (ECCN 2E984) "required" for the "development", "production" or "use" of concealed object detection equipment controlled by 2A984, or the "development" of "software" controlled by 2D984.

* * * * *

■ 8. Section 742.10 is amended by adding paragraphs (b)(1)(xii), (b)(1)(xiii), and (b)(1)(xiv), to read as follows:

§ 742.10 Anti-Terrorism: Sudan.

* * * * *

(b) * * *

(1) * * *

(xii) Concealed object detection equipment controlled under ECCN 2A984.

(xiii) "Software" (ECCN 2D984) "required" for the "development", "production" or "use" of concealed object detection equipment controlled by 2A984.

(xiv) "Technology" (ECCN 2E984) "required" for the "development", "production" or "use" of concealed object detection equipment controlled by 2A984, or the "development" of "software" controlled by 2D984.

* * * * *

■ 9. Section 742.19 is amended by adding paragraphs (b)(1)(xxii), (b)(1)(xxiii), and (b)(1)(xxiv), to read as follows:

§ 742.19 Anti-terrorism: North Korea.

* * * * *

(b) * * *

(1) * * *

(xxii) Concealed object detection equipment controlled under ECCN 2A984.

(xxiii) "Software" (ECCN 2D984) "required" for the "development", "production" or "use" of concealed object detection equipment controlled by 2A984.

(xxiv) "Technology" (ECCN 2E984) "required" for the "development", "production" or "use" of concealed object detection equipment controlled by 2A984, or the "development" of "software" controlled by 2D984.

* * * * *

■ 10. Supplement No. 2 to Part 742 is amended by adding paragraphs (c)(46), (c)(47), and (c)(48), to read as follows:

Supplement No. 2 to Part 742—Anti-Terrorism Controls: North Korea, Syria and Sudan Contract Sanctity Dates and Related Policies

* * * * *

(c) * * *

* * * * *

(46) *Concealed object detection equipment described in ECCN 2A984.*

(i) *Syria.* Applications for all end-users in Syria of these commodities will generally be denied. Contract sanctity date: March 19, 2010.

(ii) *Sudan.* Applications for all end-users in Sudan of these commodities will generally be denied. Contract sanctity date: March 19, 2010.

(iii) *North Korea.* Applications for all end-users in North Korea of these commodities will generally be denied. Contract sanctity date: March 19, 2010.

(47) "*Software*" *described in ECCN 2D984* "*required*" *for the* "*development*", "*production*" *or* "*use*" *of concealed object detection equipment controlled by 2A984.*

(i) *Syria.* Applications for all end-users in Syria of these software will generally be denied. Contract sanctity date: March 19, 2010.

(ii) *Sudan.* Applications for all end-users in Sudan of these software will generally be denied. Contract sanctity date: March 19, 2010.

(iii) *North Korea.* Applications for all end-users in North Korea of these software will generally be denied. Contract sanctity date: March 19, 2010.

(48) "*Technology*" *described in ECCN 2E984* "*required*" *for the* "*development*", "*production*" *or* "*use*" *of concealed object detection equipment controlled by 2A984, or the* "*development*" *of* "*software*" *controlled by 2D984.*

(i) *Syria.* Applications for all end-users in Syria of these items will generally be denied. Contract sanctity date: March 19, 2010.

(ii) *Sudan.* Applications for all end-users in Sudan of these items will generally be denied. Contract sanctity date: March 19, 2010.

(iii) *North Korea.* Applications for all end-users in North Korea of these items will generally be denied. Contract sanctity date: March 19, 2010.

PART 748—[AMENDED]

■ 11. The authority citation for 15 CFR part 748 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

■ 12. Supplement No. 2 to part 748 is amended by revising paragraph (k), to read as follows:

Supplement No. 2 to Part 748—Unique Application and Submission Requirements

* * * * *

(k) *Regional stability controlled items.* (1) If you are submitting a license application for the export or reexport of items controlled for regional stability reasons and subject to licensing under RS Column 1 on the Country Chart, your license application must be accompanied by full technical specifications.

(2) If you are submitting a license application for the export or reexport to Austria, Cyprus, Finland, Ireland, Israel, Malta, Mexico, Singapore or Sweden of items controlled by ECCNs 2A984, 2D984 or 2E984 to a person designated by a government end-user, pursuant to contract, your license application to export to such designated person must include a statement from the government end-user to be eligible for the licensing policy under § 742.6(b)(2)(ii). A responsible official representing the designated end-user must sign the statement. "Responsible official" is defined as someone with personal knowledge of the information included in the statement, and authority to bind the designated end-user for whom they sign, and who has the power and authority to control the use and disposition of the licensed items. Statements from government end-users that the person is so designated (*i.e.,* support documents submitted in accordance with this paragraph (k)(2)) must address the following three criteria for a license application to be reviewed in accordance with the license review policy in § 742.6(b)(2)(ii):

(i) U.S. Department of Homeland Security (DHS) Customer Contract Number or agreement reference number, End-user name (company), complete address (including street address, city, state, country and postal code), end-user point of contact (POC);

(ii) Brief contract description, including DHS Project information and projected outcome; and

(iii) The statement shall include a certification stating "We certify that all of the representations in this statement are true and correct to the best of our knowledge and we do not know of any additional representations which are inconsistent with the above statement."

* * * * *

PART 774—[AMENDED]

■ 13. The authority citation for 15 CFR part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.,* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C.

1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

■ 14. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, is amended by adding Export Control Classification Number (ECCN) 2A984 after ECCN 2A983 and before ECCN 2A991, to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

2A984 Concealed object detection equipment operating in the frequency range from 30 GHz to 3000 GHz and having a spatial resolution of 0.5 milliradian up to and including 1 milliradian at a standoff distance of 100 meters; and parts and components, n.e.s.

License Requirements

Reason for Control: RS, AT

Control(s)	*Country chart*
RS applies to entire entry ...	RS Column 2.
AT applies to entire entry ...	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1) Concealed object detection equipment operating in the frequency range from 30 GHz to 3000 GHz and having a spatial resolution less than 0.5 milliradian (a lower milliradian number means a more accurate image resolution) at a standoff distance of 100 meters is under the export licensing authority of the U.S. Department of State (22 CFR parts 120 through 130). (2) Concealed object detection equipment operating in the frequency range from 30 GHz to 3000 GHz and having a spatial resolution greater than 1 milliradian (a higher milliradian number means a less accurate image resolution) at a standoff distance of 100 meters is designated as EAR99. (3) See ECCNs 2D984 and 2E984 for related software and technology controls.
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

Note: Concealed object detection equipment includes but is not limited to equipment for screening people, documents, baggage, other personal effects, cargo and/or mail.

Technical Note: The range of frequencies span what is generally considered as the millimeter-wave, submillimeter-wave and terahertz frequency regions.

* * * * *

■ 15. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, is amended by adding Export Control Classification Number (ECCN) 2D984 after ECCN 2D983 and before ECCN 2D991, to read as follows:

* * * * *

2D984 "Software" "required" for the "development", "production" or "use" of concealed object detection equipment controlled by 2A984.

License Requirements

Reason for Control: RS, AT

Control(s)	*Country chart*
RS applies to entire entry ...	RS Column 2.
AT applies to entire entry ...	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1) "Software" "required" for the "development", "production" or "use" of concealed object detection equipment operating in the frequency range from 30 GHz to 3000 GHz and having a spatial resolution less than 0.5 milliradian (a lower milliradian number means a more accurate image resolution) at a standoff distance of 100 meters is under the export licensing authority of the U.S. Department of State (22 CFR parts 120 through 130). (2) "Software" "required" for the "development", "production" or "use" of concealed object detection equipment operating in the frequency range from 30 GHz to 3000 GHz and having a spatial resolution greater than 1 milliradian spatial resolution (a higher milliradian number means a less accurate image resolution) at a standoff distance of 100 meters is designated as EAR99. (3) See ECCNs 2A984 and 2E984 for related commodity and technology controls.
Related Definitions: N/A.
Items: The list of items controlled is contained in the ECCN heading.

* * * * *

■ 16. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, Export Control Classification Number (ECCN) 2E001 is amended by revising the Heading, to read as follows:

* * * * *

2E001 "Technology" according to the General Technology Note for the "development" of equipment or "software" controlled by 2A (except 2A983, 2A984, 2A991, or 2A994), 2B (except 2B991, 2B993, 2B996, 2B997, or 2B998), or 2D (except 2D983, 2D984, 2D991, 2D992, or 2D994).

* * * * *

■ 17. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, Export Control Classification Number (ECCN) 2E002 is amended by revising the Heading, to read as follows:

* * * * *

2E002 "Technology" according to the General Technology Note for the "production" of equipment controlled by 2A (except 2A983, 2A984, 2A991, or 2A994), or 2B (except 2B991, 2B993, 2B996, 2B997, or 2B998).

* * * * *

■ 18. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, is amended by adding Export Control Classification Number (ECCN) 2E984 after ECCN 2E983 and before ECCN 2E991, to read as follows:

* * * * *

2E984 "Technology" "required" for the "development", "production" or "use" of equipment controlled by 2A984 or "required" for the "development" of "software" controlled by 2D984.

License Requirements

Reason for Control: RS, AT

Control(s)	*Country chart*
RS applies to entire entry ...	RS Column 2.
AT applies to entire entry ...	AT Column 1.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: (1) "Technology" "required" for the "development", "production" or "use" of concealed object detection equipment operating in the frequency range from 30 GHz to 3000 GHz and having a spatial resolution less than 0.5 milliradian (a lower milliradian number means a more accurate image resolution) at a standoff distance of 100 meters or "required" for the "development" of "software" "required" for the "development", "production" or "use" of concealed object detection equipment operating in the frequency range from 30 GHz to 3000 GHz and having a spatial resolution less than 0.5 milliradian at a standoff distance of 100 meters is under the export licensing authority of the U.S. Department of State (22 CFR parts 120 through 130). (2) "Technology" "required" for the "development", "production" or "use" of concealed object detection equipment operating in the frequency range from 30 GHz to 3000 GHz and having a spatial resolution greater than 1 milliradian spatial resolution (a higher milliradian number means a less accurate image resolution) at a standoff distance of 100 meters or "required" for the "development" of "software" "required" for the "development", "production" or "use" of concealed object detection equipment operating in the frequency range from 30 GHz to 3000 GHz and having a spatial resolution greater than 1 milliradian spatial resolution (a higher milliradian number means a less accurate image resolution) at a standoff distance of 100 meters is designated as EAR99. (3) See ECCNs 2A984 and 2D984 for related commodity and software controls.

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

* * * * *

Dated: March 19, 2010.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2010–6588 Filed 3–24–10; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM04–7–008; Order No. 697–D]

Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities

Issued March 18, 2010.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; order on rehearing and clarification.

SUMMARY: The Federal Energy Regulatory Commission is granting in part and denying in part the requests for rehearing and clarification of its determinations in Order No. 697–C, which granted rehearing and clarification of certain revisions to Commission regulations and to the standards for obtaining and retaining market-based rate authority for sales of energy, capacity and ancillary services to ensure that such sales are just and reasonable.

DATES: *Effective Date:* This order on rehearing will become effective April 26, 2010.

FOR FURTHER INFORMATION CONTACT:

Michelle Barnaby (Technical Information), Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8407.

Paige Bullard (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6462.

SUPPLEMENTARY INFORMATION:

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Before Commissioners: Jon Wellinghoff, Chairman; Marc Spitzer, Philip D. Moeller, and John R. Norris.

Order No. 697–D

Order on Rehearing and Clarification

I. Introduction

1. In this order, the Federal Energy Regulatory Commission (Commission) addresses requests for rehearing and clarification of Order No. 697–C.[1] Specifically, the Commission provides additional clarification on the requirement that sellers file a notification of change in status when they acquire sites for new generation capacity development.[2] The Commission denies the requests for rehearing of the tariff provision governing mitigated sales at the metered boundary and reaffirms its determination in Order No. 697–B to revise the mitigated sales tariff provision in order to ensure that a mitigated seller making market-based rate sales at the metered boundary does not sell power into the mitigated market either directly or through its affiliates.[3]

II. Background

2. On June 21, 2007, the Commission issued Order No. 697,[4] codifying and, in certain respects, revising its standards for obtaining and retaining market-based rates for public utilities. In order to accomplish this, as well as streamline the administration of the market-based rate program, the Commission modified its regulations at 18 CFR Part 35, subpart H, governing market-based rate authorization. Order No. 697 became effective on September 18, 2007.

3. The Commission issued an order clarifying four aspects of Order No. 697 on December 14, 2007.[5] Specifically, that order addressed: (1) The effective date for compliance with the requirements of Order No. 697; (2) which entities are required to file updated market power analyses for the Commission's regional review; (3) the data required for horizontal market power analyses; and (4) what constitute "seller-specific terms and conditions" that sellers may list in their market-based rate tariffs in addition to the standard provisions listed in Appendix C to Order No. 697.

[1] *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities,* Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 (2009).

[2] 18 CFR 35.42.

[3] *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities,* Order No. 697–B, FERC Stats. & Regs. ¶ 31,285 (2008).

[4] *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities,* Order No. 697, FERC Stats. & Regs. ¶ 31,252 (Order No. 697 or Final Rule), *clarified,* 121 FERC ¶ 61,260 (2007), *order on reh'g,* Order No. 697–A, FERC Stats. & Regs. ¶ 31,268 (2008); *clarified,* 124 FERC ¶ 61,055 (2008) (July 17 Clarification Order), *order on reh'g,* Order No. 697–B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh'g,* Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 (2009).

[5] *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities,* 121 FERC ¶ 61,260 (2007) (December 14 Clarification Order).

4. On April 21, 2008, the Commission issued Order No. 697–A,[6] which, in most respects, affirmed the determinations made in Order No. 697 and denied rehearing of the issues raised. However, with respect to several issues, the Commission granted rehearing or provided clarification.

5. On July 17, 2008, the Commission issued an order clarifying certain aspects of Order No. 697–A related to the allocation of simultaneous transmission import capability for purposes of performing the indicative screens.[7]

6. On December 19, 2008, the Commission issued Order No. 697–B[8] in which it clarified and affirmed the determinations made in Order No. 697–A. Specifically, the Commission provided clarification regarding the allocation of seasonal and longer transmission reservations and also clarified that it will require a seller making an affirmative statement as to whether a contractual arrangement transfers control to seek a "letter of concurrence" from other affected parties identifying the degree to which each party controls a facility, and to submit these letters with its filing. The Commission denied the request that it clarify that only sites for which necessary permitting for a generation plant has been completed and/or sites on which construction for a generation plant has begun apply under the definition of "inputs to electric power production" in § 35.36(a)(4) of the Commission's regulations. Order No. 697–B also revised the definition of "affiliate" in § 35.36(a)(9) of its regulations to delete the separate definition for exempt wholesale generators. The Commission also provided a number of other clarifications with regard to, among others, the pricing of sales of non-power goods and services and the tariff provision governing sales at the metered boundary.

7. On January 28, 2009, in response to Tampa Electric Company's (Tampa Electric) request for extension of time to comply with the tariff provision on mitigated sales at the metered boundary as revised in Order No. 697–B, the Commission issued an order granting the extension requested by Tampa Electric until such time as the Commission issued an order on rehearing of Order No. 697–B.[9] That order clarified that affected entities must continue to comply with the mitigated sales tariff provision adopted in Order No. 697–A[10] (which became effective on June 6, 2008), until the Commission acted on the requests for rehearing of Order No. 697–B.

8. On June 18, 2009, the Commission issued Order No. 697–C[11] in which it clarified the requirement that sellers file a notification of change in status when they acquire sites for new generation capacity development. The Commission denied the requests for rehearing of the tariff provision governing mitigated sales at the metered boundary and affirmed its determination in Order No. 697–B to revise the mitigated sales tariff provision in order to ensure that a mitigated seller making market-based rate sales at the metered boundary does not sell power into the mitigated market either directly or through its affiliates.

9. The American Wind Energy Association (American Wind), the Edison Electric Institute (EEI), and Progress Energy, Inc.[12] (Progress), and AES Corporation (AES) request rehearing and/or clarification of Order No. 697–C. American Wind, EEI and AES request clarification of the requirement to report the acquisition of sites for new generation capacity development. EEI and Progress request rehearing and clarification of the Commission's determination in Order No. 697–C to deny the requests for rehearing of the mitigated sales tariff provision, and to affirm the Commission's determination in Order No. 697–B to revise the mitigated sales tariff provision in order to ensure that a mitigated seller making market-based rate sales at the metered boundary does not sell power into the mitigated market either directly or through its affiliates.

III. Discussion

A. Vertical Market Power Other Barriers to Entry

Background

10. Order No. 697 adopted the proposal in the notice of proposed rulemaking (NOPR) to consider a seller's ability to erect other barriers to entry as part of the vertical market power analysis, but modified the requirements when addressing other barriers to entry.[13] It also provided clarification regarding which inputs to electric power production the Commission will consider as other barriers to entry, and modified the proposed regulatory text in that regard.[14]

11. On rehearing in Order No. 697–A, the Commission clarified that "inputs to electric power production" encompasses *physical* coal sources and ownership of or control over *who may access* transportation of coal via barges and railcar trains,[15] and revised its definition of "inputs to electric power production" in § 35.36(a)(4) to reflect this clarification.[16]

12. In Order No. 697–B, with respect to the definition of "inputs to electric power production," the Commission rejected the Electric Power Supply Association's (EPSA) proposal that the term "sites for new generation capacity development" means only sites with respect to which permits for new generation have been obtained or where construction of new generation is underway, and not encompass land that could potentially be used for generation. The Commission clarified that "sites for new generation capacity development" should be construed to include ownership of land that could potentially be used for generation, not just sites for which permits for new generation have been obtained or where construction of new generation is under way. The Commission also clarified that "sites for new generation capacity development" does not include land that cannot be used for generation capacity development.[17]

13. In Order No. 697–C, in order to address the Commission's regulatory concerns and the concerns of the American Wind, the Commission granted rehearing in order to revise the change in status reporting requirement in § 35.42 of its regulations to require market-based rate sellers to report the acquisition of control of sites for new generation capacity development on a quarterly basis instead of within 30 days of the acquisition. In particular, § 35.42(d) requires quarterly reporting of a seller's acquisition of a site or sites for new generation capacity development for which site control has been demonstrated in the interconnection

[6] Order No. 697–A, FERC Stats. & Regs. ¶ 31,268 (2008).

[7] July 17 Clarification Order, 124 FERC ¶ 61,055.

[8] Order No. 697–B, FERC Stats. & Regs. ¶ 31,285.

[9] *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity, and Ancillary Services by Public Utilities,* 126 FERC ¶ 61,072 (2009) (Order Granting Extension of Time to Comply).

[10] Order No. 697–A, FERC Stats. & Regs. ¶ 31,268 at Appendix C.

[11] *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity, and Ancillary Services by Public Utilities,* Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 (2009).

[12] Progress Energy, Inc. submits its request for rehearing and technical conference on behalf of its subsidiaries Carolina Power & Light Company, doing business as Progress Energy Carolinas, Inc., and Florida Power Corporation, doing business as Progress Energy Florida.

[13] Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 440.

[14] *Id.*

[15] Order No. 697–A, FERC Stats. & Regs. ¶ 31,268 at P 176 (emphasis in original).

[16] *Id.*

[17] Order No. 697–B, FERC Stats. & Regs. ¶ 31,285 at P 38.

process and for which the potential number of megawatts that are reasonably commercially feasible on the site or sites for new generation capacity development is equal to 100 megawatts or more.[18]

14. Separate and apart from this reporting requirement, and in order to address its concern that sellers may acquire land that is not used for the development of new generation capacity, and that is instead acquired for the purpose of preventing new generation capacity from being developed on that land, in Order No. 697–C the Commission stated that a seller must also report any land it has acquired, taken a leasehold interest in, obtained an option to purchase or lease, or entered into an exclusivity or other arrangement to acquire for the purpose of developing a generation site and for which site control has not yet been demonstrated during the prior three years (triggering event), and for which the potential number of megawatts that are reasonably commercially feasible on the land for new generation capacity development is equal to 100 megawatts or more. The Commission stated that a seller must report each such triggering event in a single report by January 1 of the year following the calendar year in which the triggering event occurred.[19] This reporting requirement is set forth in § 35.42(e).

15. On December 10, 2009, the Commission granted an extension of time to comply with the requirement to report sites for which site control has not been demonstrated during the prior three years, until 30 days after the Commission issues an order on the requests for clarification and rehearing of Order No. 697–C.[20]

Requests for Clarification

16. On rehearing of Order No. 697–C, American Wind states that it applauds the Commission for modifying the change in status reporting requirements, but nevertheless seeks clarification on certain issues.[21] In particular, American Wind requests clarification regarding the deadline for the first quarterly filing. American Wind points out that Order No. 697–C states that "quarterly filings must be submitted within 30 days of the end of each quarter" and it assumes that since Order No. 697–C becomes effective on July 29, 2009, the first quarterly filings will be due by October 30, 2009 thirty days after the end of the first full quarter after the effective date. American Wind also asks whether the initial quarterly report must include only new site control changes from the prior quarter, or must include all changes since the prior triennial filing (or the initial market-based rate filing by the seller), and, because the new reporting requirement is taking effect in the middle of the triennial filing cycle, American Wind seeks clarification on the period that should be covered in the first quarterly report.

17. American Wind also seeks clarification regarding the interaction between the three-year triggering event reporting requirement and the quarterly reporting requirement. It requests that the Commission clarify that market-based rate sellers are not required to submit a quarterly report for a site that they have previously reported in accordance with the reporting requirement for sites for which site control has not been demonstrated during the prior three years. In support of this argument, American Wind argues that requiring sellers to submit a quarterly report upon demonstration of site control for a site that they may have previously reported in accordance with the reporting requirement for sites for which site control has not been demonstrated during the prior three years will not give the Commission any additional insight about the seller's market power and could lead to the mistaken belief that a seller has more land under its control than is actually the case.[22]

18. AES asks that the Commission clarify whether the first quarterly report submitted under revised § 35.42 of the Commission's regulations (*i.e.,* the report for the third quarter of 2009) is "cumulative" and must address "all sites meeting the requisite criteria that were acquired by a seller and its affiliates in the prior periods (including the third quarter of 2009) and had not been previously reported to the Commission," and whether all subsequent quarterly reports under § 35.42 are "limited to the incremental number of sites and potential capacity for development acquired during the quarter in question."[23]

19. Both American Wind and the EEI request that the date for reporting sites for which site control has not been demonstrated during the prior three years be changed from January 1 to January 30 of the year following the calendar year in which the triggering event occurred.[24] American Wind and EEI argue that adjusting the deadline from January 1 to January 30 would reflect deadlines for other reports, and in particular, the Commission's fourth quarter report for generation sites for which site control has been demonstrated in the interconnection process. They also state that the January 1 reporting date poses challenges given the end-of-year holiday schedules of employees. EEI states that companies must prepare a significant number of financial and operational reports at the end of each year, not only for submission to the Commission, but also for submission to state regulatory commissions, the Securities and Exchange Commission, and the Energy Information Administration, among others.

20. With respect to the requirement that a seller report any land it has acquired for the purpose of developing new generation capacity and for which site control has not yet been demonstrated during the prior three years, and for which the potential number of megawatts that is reasonably commercially feasible on the land for new generation capacity development is 100 megawatts or more, EEI seeks clarification of the term "reasonably commercially feasible" in the context of sites that are acquired for the purpose of developing a thermal generation facility, such as a natural gas plant, and for which site control has not yet been demonstrated in the interconnection process. EEI states that unlike wind and solar generating plants, where the size of a site will have a direct impact on the number of megawatts that may be commercially developable, a single site for a thermal generation plant could theoretically accommodate an almost infinite array of possible megawatts that might be commercially developable.[25] EEI argues that the Commission should clarify that a seller may base its determination on a planning horizon that is consistent with its state-regulated resource planning process (if it is subject to such a process), and should provide clarification by identifying some of the commercial and system factors that sellers can take into account such as current market prices, expected new regulatory requirements affecting the type of generation for which the site was acquired, and/or current system

[18] Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 at P 18.

[19] *Id.* P 20.

[20] *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities,* Docket No. RM04–7–006, December 10, 2009 Notice of Extension of Time.

[21] American Wind July 20, 2009 Request for Clarification at 2–3.

[22] *Id.* at 3–4.

[23] AES November 11, 2009 Request for Clarification at 2.

[24] American Wind July 20, 2009 Rehearing Request at 4–5; EEI July 20, 2009 Rehearing Request at 18.

[25] EEI July 20, 2009 Rehearing Request at 17.

conditions.[26] EEI states that providing these clarifications will ensure that the Commission is receiving adequate information to meet its needs, while also preserving Commission resources.

Commission Determination

21. In response to the requests for clarification regarding the requirement that a seller report on a quarterly basis the acquisition of a site or sites for new generation capacity development for which site control has been demonstrated in the interconnection process, we clarify that if no sites have been acquired during a quarter, then a seller should not file a report for that quarter.[27] As with other types of change in status filings, a seller need only submit a change in status notification with the Commission if there is a change that may affect the conditions relied upon by the Commission since it initially granted the seller market-based rate authorization, or since the Commission accepted a seller's updated market power analysis. Thus, a seller should *not* submit change in status reports to notify the Commission that it has *not* acquired any sites for new generation capacity development.

22. We also clarify that a seller is required only to report the acquisition of sites for new generation capacity development that have not previously been reported. That is, the change in status reporting obligation for sites for new generation capacity development is not cumulative; rather, only sites that have not been reported previously must be included in the quarterly reports.

23. With respect to EEI's request for clarification of the term "reasonably commercially feasible" in the context of sites acquired for the purpose of developing a thermal generation facility and for which site control has *not* yet been demonstrated in the interconnection process, we appreciate the concerns raised by EEI regarding the difficulty sellers may have in providing information on the potential number of megawatts that are reasonably commercially feasible on such sites, and we believe that some of the same concerns may arise with respect to the requirement that a seller report any land it has acquired, taken a leasehold interest in, obtained an option to purchase or lease, or entered into an exclusivity or other arrangement to acquire for the purpose of developing a generation site and for which site control has *not* yet been demonstrated during the prior three years (triggering event), and for which the potential number of megawatts that are reasonably commercially feasible on the land for new generation capacity development is equal to 100 megawatts or more. In addition, as American Wind points out, because sellers are required to submit a quarterly report with the Commission for sites for new generation capacity development for which site control has been demonstrated in the interconnection process, also requiring the report for sites for which site control has *not* been demonstrated during the prior three years could lead to the mistaken belief that a seller has more land under its control than is actually the case. Further, since the issuance of Order No. 697–C, two rounds of quarterly reports have been filed with the Commission. These quarterly reports provide the Commission and interested entities with information to evaluate a seller's ability to erect barriers to entry through its acquisition of sites for new generation capacity development. Given the filing of the quarterly reports, and in light of EEI's request for clarification of the term "reasonably commercially feasible" in the context of sites acquired for the purpose of developing a thermal generation facility and for which site control has *not* yet been demonstrated in the interconnection process, we recognize the difficulty of determining the potential number of megawatts that are reasonably commercially feasible on sites for which site control has *not* yet been demonstrated in the interconnection process, and we have reconsidered the basis for the requirement imposed in § 35.42(e) that a seller report any land it has acquired, taken a leasehold interest in, obtained an option to purchase or lease, or entered into an exclusivity or other arrangement to acquire for the purpose of developing a generation site and for which site control has *not* yet been demonstrated during the prior three years (triggering event), and for which the potential number of megawatts that are reasonably commercially feasible on the land for new generation capacity development is equal to 100 megawatts or more. We have assessed the difficulty and burden of complying with this reporting requirement for both the industry and the agency against the Commission's need to obtain the information necessary to evaluate a seller's ability to erect barriers to entry, and have concluded that it is reasonable to gain more experience with regard to the quarterly filings before requiring the additional filing for sites for which site control has not been demonstrated during the prior three years. After careful consideration, we conclude that elimination of this reporting requirement is reasonable, and we therefore will revise § 35.42 of our regulations to remove subsection (e). Should we determine based on experience over a number of quarterly cycles that the quarterly reports may not be providing sufficient information, we can reconsider our determination here. In any event, the Commission always reserves the right to require additional information, including an updated market power analysis, from a seller. As a result, if there is a concern that a particular seller may be acquiring land for the purpose of preventing new generation capacity from being developed on that land, the Commission can request additional information from the seller at any time.

24. Because we are eliminating the reporting requirement for sites for which site control has not been demonstrated during the prior three years, EEI's request for clarification of the term "reasonably commercially feasible" in the context of sites that are acquired for the purpose of developing a thermal generation facility, such as a natural gas plant, and for which site control has *not* yet been demonstrated in the interconnection process is moot. The requests of American Wind and EEI that the deadline for the reports under § 35.42(e) be moved from January 1 to January 30 of each year to coincide with the filing date for the quarterly reports required under § 35.42(d) is similarly rendered moot by virtue of the elimination of the three-year triggering event reporting requirement.

B. Mitigation

Protecting Mitigated Markets

Sales at the Metered Boundary

Background

25. The Commission explained in Order No. 697 that it would continue to apply mitigation to all sales in the balancing authority area in which a seller is found, or presumed, to have market power. However, the Commission explained that it would permit mitigated sellers to make market-based rate sales at the metered boundary between a balancing authority area in which a seller is found, or presumed, to have market power and a balancing authority area in which the seller has market-based rate authority, under

[26] *Id.*

[27] Because the first quarterly report was due October 30, 2009 (30 days after the end of the first full quarter following the effective date of Order No. 697–C), American Wind's request for clarification regarding the deadline for the first quarterly filing is now moot.

certain circumstances.[28] The Commission also adopted a requirement that mitigated sellers wishing to make such market-based rate sales at the metered boundary maintain sufficient documentation and include a specific mitigated sales tariff provisions.[29]

26. In Order No. 697–A, after considering comments regarding the difficulty of determining and documenting intent, the Commission decided to eliminate the intent element of the mitigated sales tariff provision, which stated that "any power sold hereunder is not intended to serve load in the seller's mitigated market." In eliminating the seller's intent requirement, the Commission modified this provision to require that "the mitigated seller and its affiliates do not sell the same power back into the balancing authority area where the seller is mitigated." [30] In this regard, the Commission noted that "[t]o provide additional regulatory certainty for mitigated sellers, the Commission clarified that once the power has been sold at the metered boundary at market-based rates, the mitigated seller and its affiliates may not sell that same power back into the mitigated balancing authority area, whether at cost-based or market-based rates." [31] The Commission also stated that because it was eliminating the intent requirement, it need not address issues raised regarding documentation necessary to demonstrate the mitigated seller's intent.

27. Further, in response to a request for clarification submitted by the Pinnacle West Companies (Pinnacle), the Commission reiterated in Order No. 697–A [32] that an affiliate of a mitigated seller is prohibited from selling power that was purchased at a market-based rate at the metered boundary back into the balancing authority area in which the seller has been found, or presumed, to have market power. The Commission explained that to the extent that the mitigated seller or its affiliates believe that it is not practical to track such power, they can either choose to make no market-based rate sales at the metered boundary or limit such sales to sales to end users of the power, thereby eliminating the danger that they will violate their tariff by re-selling the power back into a balancing authority in which they are mitigated.[33]

28. In Order No. 697–B, in response to the rehearing request of E.ON U.S. LLC (E.ON), the Commission explained that it appreciated concerns regarding the difficulty of defining the term "same power" that it introduced in Order No. 697–A. For this reason, the Commission revised the mitigated sales tariff provision to state that "if the Seller wants to sell at the metered boundary of a mitigated balancing authority area at market-based rates, then neither it nor its affiliates can sell into that mitigated balancing authority area from the outside." The Commission explained that this revised tariff language prohibits a mitigated seller making market-based rate sales at the metered boundary from selling power into the mitigated market through its affiliates. The Commission again explained that sellers may either refrain from making market-based rate sales at the metered boundary, or limit such sales to end users of the power.[34]

29. In Order No. 697–C, the Commission denied the requests for rehearing concerning the revised mitigated sales tariff provision. However, the Commission agreed with E.ON that the tariff provision should be revised to state "if the Seller sells" instead of "if the Seller wants to sell * * *." The Commission clarified that it is not the seller's intent, but rather the seller's action that triggers the limitation set forth in the mitigated sales tariff provision. The Commission also affirmed its determination to revise the mitigated sales tariff provision in Order No. 697–B in order to ensure that a mitigated seller making market-based rate sales at the metered boundary does not re-sell power into the mitigated market either directly or through its affiliates.[35] The Commission also denied petitioners' requests that the Commission return to the intent-based concept first used in Order No. 697.[36]

Requests for Rehearing

30. EEI and Progress (collectively, Petitioners) request rehearing and clarification of the Commission's determination in Order No. 697–C to deny the requests for rehearing of the mitigated sales tariff provision, and to affirm the Commission's determination in Order No. 697–B to revise the mitigated sales tariff provision in order to ensure that a mitigated seller making market-based rate sales at the metered boundary does not sell power into the mitigated market either directly or through its affiliates. EEI requests that the Commission grant rehearing, clarification and/or a technical conference on the mitigated sales tariff provision, and requests that the Commission grant its motion for extension of time to delay the deadline for complying with the mitigated sales tariff provision until the Commission issues an order responding to EEI's request for rehearing of Order No. 697–C, or following a technical conference if the Commission intends to retain the constraints contained in the mitigated sales tariff provision.[37] Progress supports EEI's request for rehearing, clarification and/or technical conference, and motion for an extension of time.[38]

31. EEI contends that the final tariff language adopted in Appendix C to Order No. 697–C prohibits mitigated sellers who make market-based rate sales at the metered boundary, and their affiliates, from selling power back into the mitigated market, and that this constraint will require mitigated sellers to reform their participation in markets substantially.[39] EEI requests that the Commission grant rehearing or clarification, and reconsider the need for and scope of any constraints placed on mitigated sellers who make market-based rate sales at the metered boundary. It argues that mitigated sellers should be permitted to make sales at the metered boundary without subsequent restrictions on the mitigated seller's ability to make sales into the balancing authority area in which it is mitigated.[40] It asserts that if the Commission believes that some additional constraints are needed on border sales by mitigated sellers, the Commission should grant rehearing and/or clarification to ensure that constraints imposed are reasonable, focus narrowly on the underlying

[28] Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 817 (citing North American Electric Reliability Corporation) *Glossary of Terms Used in Reliability Standards* at 2 (2007), *available at ftp://www.nerc.com/pub/sys/all_updl/standards/rs/Glossary_02May07.pdf.*

[29] *Id.* P 830.

[30] Order No. 697–A, FERC Stats. & Regs. ¶ 31,268 at P 334. In Order No. 697–A, the Commission revised the tariff language governing market-based rate sales at the metered boundary to conform with the discussion in the December 14 Clarification Order regarding use of the term "mitigated market." The Commission stated that, as explained in the December 14 Clarification Order, "balancing authority area in which a seller is found, or presumed, to have market power" is a more accurate way to describe the area in which a seller is mitigated. *Id.* P 333.

[31] *Id.* n.464.

[32] *Id.* P 335.

[33] *Id.* P 336.

[34] Order No. 697–B, FERC Stats. & Regs. ¶ 31,285 at P 77 (citing Order No. 697–A, FERC Stats. & Regs. ¶ 31,268 at P 336).

[35] Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 at P 42 (citing Order No. 697–A, FERC Stats. & Regs. ¶ 31,268 at P 336).

[36] *Id.* P 44.

[37] EEI July 20, 2009 Rehearing Request at 3, 15.

[38] Progress July 20, 2009 Rehearing Request at 2.

[39] *Id.* at 14.

[40] EEI July 20, 2009 Rehearing Request at 12.

problem, and do not prevent legitimate transactions.[41]

32. EEI argues that if the Commission "intends to retain constraints on mitigated sellers and/or their affiliates in the wake of a market-based rate sale at the metered boundary between a mitigated market and a non-mitigated market, beyond a requirement that the original market-based rate sale involve title transfer to an unaffiliated entity," the Commission should hold a technical conference to address these issues so that the ultimate constraints are appropriate.[42] Progress argues that a technical conference on this issue is needed to "provide the Commission and the industry with a forum to test its views as to what the specific market power concerns are" and it asserts that such a technical conference should address the following questions: (1) Should the market power concern regarding a market-based rate sale at the metered boundary of a mitigated balancing authority be limited to the concern that the seller or its affiliate will obtain or re-obtain title to that same power and re-sell it at market-based rates into the mitigated balancing authority area; (2) if the seller makes a market-based rate sale at the metered boundary, is there a market power concern if the seller or affiliate resells that same power back into the mitigated market under a Commission-approved system operating agreement or cost-based agreement that the Commission has determined to be just and reasonable; and (3) if the seller makes a market-based rate sale at the metered boundary, is there a market power concern if the seller or affiliate resells different power back into the mitigated market under a Commission-approved system operating agreement or cost-based agreement that the Commission has determined to be just and reasonable.[43]

33. EEI contends that the Commission has not clearly articulated the problem that the current metered boundary tariff text is intended to address, nor demonstrated the need for a ban on all sales by a mitigated seller and its affiliates into a mitigated market from outside following any market-based rate sale at the metered boundary. Progress argues that the text of the mitigated sales provision is arbitrary and capricious because it is not premised on specific statements of the harm to be prevented, is not tailored to prevent those harms, and would prohibit many legitimate transactions.[44] Specifically, Progress asserts that under the mitigated sales tariff provision, as soon as its subsidiaries Progress Energy Carolinas, Inc. and Progress Energy Florida, Inc. sell capacity and energy at market-based rates at the metered boundary to a third party, they would be precluded from selling capacity and energy to each other under their Commission-approved system operating agreement, and therefore would be required to choose between making sales under Progress' system operating agreement and making sales at market-based rates at the metered boundary. Progress states that the Commission in Order No. 697–C "appears to respond to this concern by stating that entities, like [Progress Energy Carolinas, Inc. and Progress Energy Florida, Inc.], would simply choose not to make market-based sales at the metered boundary so that they would continue [to] have the right to make sales into the mitigated balancing authority."[45] Progress argues that the Commission fails to explain why such a choice is necessary to prevent the exercise of market power, *i.e.,* why a market-based rate seller or its affiliate's sales into the mitigated balancing authority area under a Commission-approved system operating agreement or a cost-based tariff suddenly are unjust and unreasonable as a result of a seller making a market-based rate sale at the metered boundary.[46]

34. Similarly, EEI asserts that the Commission has not explained why such sales by a mitigated seller, when title transfers to an unaffiliated entity at the metered boundary, need to be further constrained at all.[47] EEI also argues that the Commission has not explained why, if a seller is mitigated in a given market, it should not be permitted to sell into that market at the seller's mitigated rates from outside simply because the seller has engaged in a market-based rate sale at the metered boundary.[48]

35. EEI contends that the tariff text's prohibition on subsequent sales by a mitigated seller are overbroad and over-inclusive, and will have unreasonable negative consequences for mitigated sellers, their customers, and competitive markets. According to EEI, the tariff provision is overbroad because: (1) The prohibition does not clearly apply only if the seller is originally selling from within the mitigated market at the metered boundary; and (2) the prohibition does not include any temporal or other limits to ensure that the subsequent prohibited sales into the mitigated market are linked to the original outbound border sales.[49]

36. EEI argues that this prohibition on subsequent sales could interfere with the ability of mitigated sellers to meet their obligations under reliability arrangements, and would unnecessarily restrict their ability to transact for the benefit of customers and ensure reliability during peak-demand periods or under emergency conditions. EEI contends that where must-offer requirements apply, companies must post available capacity on a daily basis, and that "if companies subject to these obligations are not permitted to make sales into a mitigated area or are effectively prohibited from making sales at border points because they have made a single market-based rate border sale, must-offer postings may be less effective because companies may have to withhold available generation from their listings as a result of these constraints on sales in certain areas, including areas that may be resource-deficient in peak load months."[50] EEI also alleges that this prohibition could prevent companies from entering into Commission-approved purchased power agreements to provide load-following service to wholesale customers within mitigated markets, resulting in potential negative impacts on markets and reliability during periods of high demand when the purchaser's load may outstrip the seller's ability to serve it without using purchased power.[51] Further, EEI contends that companies will be forced to either pancake another transmission wheel for any market-priced power transaction in order to move it beyond the border, "adding costs that will ultimately be borne by customers, or simply to sell at cost-based rates at the metered boundary, reducing the availability of power competing at market-based rates at the border."[52]

37. EEI argues that because the tariff provision effectively prohibits a mitigated seller and its affiliates from making other sales that bring power from outside the mitigated area to the border, the mitigated seller and its affiliates would not be able to compete in the adjacent market, which could lower market liquidity and increase price volatility in the adjacent non-

[41] *Id.*

[42] *Id.* at 14.

[43] Progress July 20, 2009 Rehearing Request at 4–5.

[44] *Id.* at 2.

[45] *Id.* at 4.

[46] *Id.* at 3–4.

[47] EEI July 20, 2009 Rehearing Request at 6.

[48] *Id.* at 7.

[49] *Id.*

[50] *Id.* at 8.

[51] *Id.* at 9.

[52] *Id.*

mitigated markets.[53] In addition, EEI contends that the mitigated sales tariff provision could potentially enable non-mitigated competitors to purchase from mitigated sellers at capped day-ahead rates, and then to sell the power back to the mitigated sellers the following day at higher prices when loads are higher than expected or power or transmission is in short supply, resulting in the mitigated sellers' wholesale and retail ratepayers incurring higher costs, given the pass-through feature of typical fuel adjustment clauses.[54]

38. In addition, EEI asserts that the Commission should affirmatively authorize types of transactions that are clearly independent of market-based rate sales at the metered boundary, such as blocks of power to be delivered at dates and times other than the metered boundary sale block of power, power made available under must-offer requirements, and load-following power.[55] EEI also argues that in order to protect reliability, the Commission should clarify that limitations on sales at the metered boundary do not require a mitigated seller or its affiliate, if otherwise precluded from selling power into the mitigated area from the outside, to withhold making those sales during times at which the seller or its affiliates are called on to act to maintain system reliability. In addition, EEI requests clarification that these limitations will not prevent sales that are otherwise authorized by the Commission, either generically or on a case-by-case basis. Further, with respect to the Commission's statement in Order No. 697–C reiterating that "mitigated sellers may choose to make no market-based rate sales at the metered boundary, or to limit such sales to end users, thereby eliminating the risk that they will re-sell power back to the balancing authority area where they are mitigated" [56] EEI requests that the Commission clarify that end users include load-serving entities such as investor-owned utilities, municipalities, and cooperatives that service retail load.[57]

39. EEI also argues that the tariff text, which provides that if a mitigated seller "sells at the metered boundary of a mitigated balancing authority area at market-based rates, then neither it nor its affiliates can sell into that mitigated balancing authority area from the outside" is effectively limitless in that the prohibition is not limited to the quantity, date, and time-of-day of the power or services originally sold, but extends to all subsequent sales by the mitigated seller and its affiliates, and that it applies to all subsequent sales by the mitigated seller and its affiliates into the mitigated area, even at mitigated rates which are typically cost-based and pre-approved by the Commission.

40. Further, EEI argues that the Commission's statements in paragraphs 42 and 43 of Order No. 697–C should be incorporated in the tariff text in Appendix C to Order No. 697–C. Specifically, EEI states that the Commission's statement at the end of paragraph 42 that "mitigated sellers may choose to make no market-based rates sales at the metered boundary, or to limit such sales to end users, thereby eliminating the risk that they will re-sell power back to the balancing authority area where they are mitigated" [58] should be incorporated in the tariff text in Appendix C. EEI also argues that the Commission's statement in paragraph 43 that "[a] mitigated seller can perform each of the above-enumerated functions either by selling at cost-based rates within its restricted balancing authority area, selling at cost-based rates at the metered boundary of its restricted balancing authority area, or by selling at market-based rates at the metered boundary as long as it makes sure that title to the power sold transfers at or beyond the metered boundary" [59] should be incorporated in the tariff text. The Commission's statement in this regard was made in response to petitioners' concerns that the mitigated sales tariff provision interferes with must-offer and reliability requirements, reserve sharing agreements, and cost-based requirement contracts. EEI asserts that the tariff text as written does not allow mitigated sellers to exercise these "options," which, according to EEI, "allow market-based rate sales by a mitigated seller at the metered boundary without such subsequent constraints, provided title transfers to the power or service sold at or beyond the metered boundary, or the power or service is sold to an end user" and that, as a result, the tariff text does not address the concerns that paragraphs 42 and 43 appear to address.[60] EEI therefore concludes that the tariff text and paragraphs 42 and 43 of the preamble are in direct conflict, "creating ambiguity and nullifying the options that the Commission purports to provide mitigated sellers who make market-based rate sales at the metered boundary." [61] EEI therefore requests that the Commission modify the mitigated sales tariff provision to include the options it alleges are set forth in paragraphs 42 and 43.[62]

41. EEI references the Commission's statement in paragraph 43 that the "restrictions on sales at the border only apply to new agreements that the seller enters into prospective from the date that Order No. 697–B became effective. No existing agreements are upset or need to be revised in any way provided that the seller abides by our restrictions on any new agreements that it enters into prospectively." EEI asserts that "[w]hile some of these agreements already exist * * *, sales under such agreements are not executed until there is a requirement for such service." [63] EEI states that "[i]f these sales are permitted because the agreement already exists, by the same logic, any sales under the WSPP tariff, for example would be permitted because the agreement already exists and the sales are executed under it." [64] EEI therefore requests "that the Commission clarify whether such sales would be permitted in the mitigated area after a market-based rate border sale occurred[,]" and "[i]f not, which sales were the Commission referring to that would be permitted because the agreements already existed." [65]

Commission Determination

42. On rehearing of Order No. 697–C, petitioners have not provided any new arguments that persuade us that the Commission should permit mitigated sellers making market-based rate sales at the metered boundary to sell power into the mitigated market, either directly or through their affiliates. Petitioners repeat many of the same arguments in their requests for rehearing that the Commission responded to in Order Nos. 697–B and 697–C. For the reasons discussed below, we deny petitioners' requests that mitigated sellers be permitted to make sales at the metered boundary without subsequent restrictions on a mitigated seller's ability to make sales into the balancing authority area in which it is mitigated,[66] and we re-affirm the Commission's determination to revise the mitigated sales tariff provision in Order No. 697–B to ensure that mitigated sellers making market-based rate sales at the

[53] *Id.* at 10.

[54] *Id.*

[55] *Id.* at 13.

[56] Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 at P 42 (citing Order No. 697–A, FERC Stats. & Regs. ¶ 31,268 at P 336).

[57] EEI July 20, 2009 Rehearing Request at 13–14.

[58] Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 at P 42 (citing Order No. 697–A, FERC Stats. & Regs. ¶ 31,268 at P 336).

[59] *Id.* P 43.

[60] EEI July 20, 2009 Rehearing Request at 5.

[61] *Id.* at 10.

[62] *Id.* at 13.

[63] *Id.* at 11.

[64] *Id.* at 11–12.

[65] *Id.* at 12.

[66] *See id.*

metered boundary do not subsequently sell power into the mitigated market either directly or through their affiliates.

43. We disagree with petitioners' arguments that the Commission has not clearly articulated the problem that the tariff text governing sales at the metered boundary is intended to address, and that the tariff text is not tailored to address the harms the mitigated sales tariff provision seeks to prevent. Contrary to petitioners' arguments in this regard, the Commission has explained repeatedly why mitigated sellers and their affiliates are prohibited from making market-based rate sales anywhere within the balancing authority area in which the seller is mitigated. Specifically, in Order No. 697 the Commission explained that:

> Allowing market-based rate sales by a seller that has been found to have market power, or has so conceded, in the very market in which market power is a concern is inconsistent with the Commission's responsibility under the FPA to ensure that rates are just and reasonable and not unduly discriminatory. While we generally agree that it is desirable to allow market-based rate sales into markets where the seller has not been found to have market power, we do not agree that it is reasonable to allow a mitigated seller to make market-based rate sales anywhere within a mitigated market. It is unrealistic to believe that sales made anywhere in a balancing authority area can be traced to ensure that no improper sales are taking place. Such an approach would also place customers and competitors at an unreasonable disadvantage because the mitigated seller has dominance in the very market in which it is making market-based rate sales.[67]

Thus, the Commission prohibited mitigated sellers and their affiliates from selling power at market-based rates in the balancing authority area in which the seller is found, or presumed, to have market power, and, because sales cannot be traced to ensure that no improper sales are taking place, the Commission placed restrictions on mitigated sellers' market-based rate sales at the metered boundary.[68]

44. We also reject petitioners' assertions that the Commission has failed to explain why, as a result of a mitigated seller making market-based rate sales at the metered boundary, such seller or its affiliate's sales into the mitigated balancing authority area under a Commission-approved cost-based tariff are unjust and unreasonable. As explained in Order Nos. 697–B and 697–C, petitioners' arguments on rehearing of Order No. 697–A effectively conceded that they cannot guarantee that market-based rate sales at the metered boundary ultimately serve load beyond the balancing authority area where the seller is mitigated.[69] Not only is it unrealistic to believe that power sold by mitigated sellers at the metered boundary can be traced,[70] these petitioners have failed to explain or demonstrate how the Commission could effectively monitor to ensure that power sold by a mitigated seller at cost-based rates into the mitigated balancing authority area did not originate from that mitigated seller's sale at market-based rates at the metered boundary. Therefore, in order to ensure that mitigated sellers are not making market-based rate sales anywhere within a balancing authority area in which they are mitigated, once a mitigated seller sells power at the metered boundary at market-based rates, the mitigated seller and its affiliates may not sell power into the balancing authority area in which the seller is found, or presumed, to have market power, whether at cost-based or market-based rates.[71] As the Commission has explained, this prohibition is necessary to ensure that no improper sales are taking place, and to enable the Commission to ensure market power is not being exercised in the balancing authority area in which a seller is mitigated.

45. We deny petitioners' request that we modify the mitigated sales tariff provision to include the options in paragraphs 42 and 43, and their request that the Commission clarify that the tariff text governing sales at the metered boundary "will not prevent sales that are otherwise authorized by the Commission, either generically or on a case-by-case basis in individual agreements."[72] Petitioners' arguments that the tariff text governing sales at the metered boundary does not allow mitigated sellers to exercise the options discussed in paragraphs 42 and 43 of Order No. 697–C, and that paragraphs 42 and 43 are therefore in direct conflict with the tariff text, is premised on a misreading of paragraphs 42 and 43. Petitioners are incorrect that paragraphs 42 and 43 "purport to allow market-based rate sales at the metered boundary without [the] subsequent constraints [contained in the tariff text], provided title transfers to the power or service at or beyond the metered boundary, or the power or service is sold to an end user."[73] The Commission's statement at the end of paragraph 42 that "mitigated sellers may choose to make no market-based rates sales at the metered boundary, or to limit such sales to end users, thereby eliminating the risk that they will re-sell power back to the balancing authority area where they are mitigated"[74] does not conflict with the mitigated sales tariff provision, which states that "if the Seller sells at the metered boundary of a mitigated balancing authority area at market-based rates, then neither it nor its affiliates can sell into that mitigated balancing authority area from the outside."[75] Because a mitigated seller making market-based rate sales at the metered boundary and its affiliates cannot make sales into the mitigated balancing authority area from the outside under the options provided in paragraph 42, both options in paragraph 42 are consistent with the text of the mitigated sales tariff provision.

46. We further reject petitioners' argument that the options set forth in paragraph 43 of Order No. 697–C are in conflict with the tariff text. In responding to petitioners' arguments that the mitigated sales tariff provision interferes with must-offer and reliability requirements, reserve sharing agreements, and cost-based requirement contracts, the Commission explained at paragraph 43 that "if a mitigated seller does not make *market-based rate* sales at the border, either that mitigated seller or its affiliates may make sales at *cost-based rates* into the balancing authority area in which it is mitigated."[76] The Commission stated that "[a] mitigated seller can perform each of the above-enumerated functions either by selling at cost-based rates within its restricted balancing authority area, selling at cost-based rates at the metered boundary of its restricted balancing authority area, or by selling at market-based rates at the metered boundary as long as it makes sure that title to the power sold transfers at or beyond the metered boundary."[77]

[67] Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 819.

[68] *Id.* P 821; *see also* Order No. 697–A, FERC Stats. & Regs. ¶ 31,268 at P 335.

[69] Order No. 697–B, FERC Stats. & Regs. ¶ 31,285 at P 66–67, 69; E.ON May 21, 2008 Rehearing Request at 12–14, Pinnacle May 21, 2008 Rehearing Request at 4–6. *See also Westar Energy, Inc.* v. *FERC,* 568 F.3d 985, 988 (DC Cir. 2009) (stating that in Order No. 697 the Commission concluded that "it 'is unrealistic to believe that' such sales 'can be traced to ensure that no improper sales are taking place.'") (citation omitted); Order No. 697–A, FERC Stats. & Regs. ¶ 31,268 at P 321.

[70] Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 818 and n.963 (citing to utility comments critical of tagging for monitoring market transactions).

[71] Order No. 697–A, FERC Stats. & Regs. ¶ 31,268 at n.464.

[72] EEI July 20, 2009 Rehearing Request at 13.

[73] *Id.* at 5.

[74] Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 at P 42 (citing Order No. 697–A, FERC Stats. & Regs. ¶ 31,268 at P 336).

[75] *Id.* at Appendix C.

[76] Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 at P 43 (emphasis in original).

[77] *Id.* (emphasis added).

Thus, the mitigated seller can fulfill any obligations it has under must-offer and reliability requirements, reserve sharing agreements, and cost-based requirement contracts by making sales at cost-based rates into the balancing authority area in which it is mitigated, as long as a mitigated seller does not make market-based rate sales at the metered boundary. It could also fulfill such obligations by selling at cost-based rates at the metered boundary of its restricted balancing authority area. Or, the mitigated seller could fulfill such obligations by making sales at the metered boundary of a mitigated balancing authority area at market-based rates, as long as neither it nor its affiliates sell into that mitigated balancing authority area from the outside.

47. Because a mitigated seller can fulfill any obligations it has under must-offer and reliability requirements, reserve sharing agreements, and cost-based requirement contracts under one of these options, we reject petitioners' argument that the tariff text's prohibition on subsequent sales by a mitigated seller are overbroad and over-inclusive. To the contrary, the mitigated sales tariff provision enables the Commission to ensure that no improper sales are taking place, and thereby enables the Commission to ensure market power is not being exercised in the balancing authority area in which a seller is mitigated. Moreover, the Court of Appeals for the District of Columbia Circuit recently confirmed that "a wholesaler * * * can easily comply with the [Commission] rule and still make sales into other regions at market-based rates. A wholesaler simply needs to ensure that title passes at or beyond the metered boundary between the mitigated and non-mitigated areas, instead of inside a mitigated area." [78] Thus, we reject EEI's argument that the tariff text's prohibition on subsequent sales by a mitigated seller are overbroad and over-inclusive.

48. Petitioners' argument that the tariff provision is overbroad because it does not clearly apply only if the seller is originally selling from within the mitigated market at the metered boundary and because it does not include any temporal or other limits to ensure that the subsequent prohibited sales into the mitigated market are linked to the original outbound border sales [79] was previously raised in the requests for rehearing of Order No. 697–B.[80] The Commission rejected that argument in Order No. 697–C and affirmed its determination to revise the mitigated sales tariff provision in Order No. 697–B to ensure that a mitigated seller making market-based rate sales at the metered boundary does not sell power into the mitigated market either directly or through its affiliates.[81] In addition, petitioners' requests that the Commission: (1) Clarify whether end users include load-serving entities such as investor-owned utilities, municipalities, and cooperatives that service retail load; (2) authorize "sales of blocks of power to be delivered at dates and times other than the border sale block of power, power made available under must offer requirements, and load-following power", and (3) "clarify that the border sale constraints do not require a mitigated seller or its affiliate, if otherwise precluded from selling power into the mitigated area from the outside, to withhold making those sales during times at which the seller or affiliates are called on to maintain system reliability" [82] were also previously raised by EEI in its request for rehearing of Order No. 697–B as part of its argument that the Commission should return to the intent-based concept adopted in Order No. 697, wherein EEI identified five types of transactions that it suggested should be permitted without first needing to demonstrate intent, even if a mitigated seller does make market-based rate sales at the metered boundary.[83] The Commission responded to this argument in Order No. 697–C, explaining that it would not return to the intent based concept as requested by EEI because, as it stated in Order No. 697–A, the Commission agreed with petitioners that it would be difficult to determine and document intent, and therefore decided to eliminate the intent element of the tariff provision.[84] The Commission does not allow rehearing of an order denying rehearing.[85] Therefore, we dismiss petitioners' argument that the tariff provision is overbroad, and their requests that the Commission authorize mitigated sellers to make the same types of sales that EEI previously asked the Commission to permit, as these arguments are an attempt to re-litigate the determinations made by the Commission in Order No. 697–C.

49. In response to petitioners' request that the Commission clarify whether end users include load-serving entities such as investor-owned utilities, municipalities, and cooperatives that service retail load, we clarify that for the purposes of the mitigated sales tariff provision adopted in this rulemaking proceeding, end users of power could include, but are not limited to, buyers that serve end-use customers, which as suggested by EEI, could include load serving entities serving their retail load, such as investor-owned utilities, municipalities, and cooperatives. However, end users do not include entities that sell power into the balancing authority area in which the seller is mitigated.[86]

50. With respect to petitioners' request for clarification concerning the applicability of the mitigated sales tariff provision, as the Commission explained in Order No. 697–C, the restrictions on market-based rate sales at the metered boundary only apply to new agreements that the seller enters into prospectively from the date that Order No. 697–B became effective, and no existing agreements are upset or need to be revised in any way provided that the seller abides by our restrictions on any

[78] *Westar Energy, Inc.* v. *FERC,* 568 F.3d 985, 988 (DC Cir. 2009) (citation omitted).

[79] EEI July 20, 2009 Rehearing Request at 7.

[80] Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 at P 28 (stating that "E.ON contends that the revised tariff provision is overbroad and prohibits legitimate transactions" and "E.ON argues that the mitigated sales tariff provision should contain a 'temporal limitation' so that it cannot be read to prohibit a mitigated seller or its affiliates from ever selling from the outside into the mitigated balancing authority area.").

[81] *Id.* P 42.

[82] EEI July 20, 2009 Rehearing Request at 13–14.

[83] Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 at P 36. Specifically, EEI argued that the Commission should permit sales to load-serving entities such as investor-owned utilities, municipalities, and cooperatives that serve retail load outside the mitigated market, even if those entities may at times need to sell power back into the mitigated market if their supply is too great. EEI January 22, 2009 Corrected Rehearing Request at 7–9. It also argued that the Commission should permit other types of transactions that are independent of the border sales, such as sales of blocks of power to be delivered at dates and times other than the border sale block of power, power made available under must offer requirements, and load-following power, and should clarify that the border sale constraints do not require a mitigated seller or its affiliates, which otherwise would be precluded from selling power into the mitigated area from the outside, to withhold making those sales during times at which the seller or affiliates are called on to maintain system reliability. EEI January 22, 2009 Corrected Rehearing Request at 8–9.

[84] Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 at P 44.

[85] *Southwestern Public Service Co.,* 65 FERC ¶ 61,088, at 61,533 & n.14 (1993).

[86] *See* Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 at P 36 (summarizing the argument in EEI's request for rehearing of Order No. 697–B that, even if a mitigated seller does engage in border sales, the Commission should permit "sales to load-serving entities such as investor-owned utilities, municipalities, and cooperatives that serve retail load outside the mitigated market, even if those entities may at times need to sell power back into the mitigated market if their supply is too great (since the timing and occurrence of such excess-power sales back into the mitigated market will be beyond the control of the mitigated seller") (citing EEI January 22, 2009 Corrected Rehearing Request at 8–9).

new agreements that it enters into prospectively.[87] EEI's interpretation that if "sales [under existing agreements] are permitted because the agreement already exists" then the mitigated sales tariff provision does not apply to "any sales under the WSPP tariff, for example * * * because the agreement already exists and the sales are executed under it[,]" [88] is incorrect. Although EEI fails to describe the specific circumstances that give rise to its concerns, as EEI acknowledges, sales under such agreements are not executed until there is a requirement for service. Thus, the terms and conditions of an agreement executed under a generally applicable tariff are subject to the Commission's rules and regulations in force at the time that such an agreement is executed. Accordingly, the mitigated sales tariff provision applies to sales under the WSPP tariff that are entered into prospectively from July 29, 2009, the date that Order No. 697–B became effective. We therefore clarify that the restrictions in the mitigated sales tariff provision apply to agreements and transactions pursuant to them, that a seller enters into prospectively from July 29, 2009, the date that Order No. 697–B became effective.[89]

51. We deny petitioners' request that the Commission hold a technical conference to address issues related to the mitigated sales tariff provision. The Commission has provided extensive opportunity for comment on this issue, and has considered four rounds of comments, including the petitioners' requests for rehearing of Order No. 697–C. As discussed above, contrary to petitioners' argument that the Commission has not articulated the problem that this tariff provision is intended to address, the Commission explained in Order Nos. 697–B and 697–C that the tariff text adopted in Order No. 697–B enables the Commission to ensure that mitigated sellers, once they have made a market-based rate sale at the metered boundary of the mitigated balancing authority area, are not making such sales anywhere within a balancing authority area in which they are mitigated.

52. We also deny petitioners' request that the Commission delay the deadline for compliance with the mitigated sales tariff provision until the Commission issues an order responding to EEI's request for rehearing of Order No. 697–C, or following a technical conference. The Commission has already granted an extension of time to comply with the revised mitigated sales tariff provision in response to the requests for rehearing of Order No. 697–B.[90] In its January 28, 2009 order granting an extension of time to comply, the Commission explained that it was granting an extension of time to comply with the mitigated sales tariff provision as set forth in Order No. 697–B "until such time as the Commission issues an order on rehearing of Order No. 697–B." [91] Accordingly, we find that entities affected by the mitigated sales tariff provision as revised in Order No. 697–B have been on notice since January 28, 2009 that they should be prepared to comply with this tariff provision upon the issuance of the Commission's order on rehearing of Order No. 697–B. Moreover, petitioners have not provided any basis for a further extension of time to comply with the mitigated sales tariff provision; rather, petitioners repeat the same arguments in their requests for rehearing that the Commission responded to in Order Nos. 697–B and 697–C.

IV. Information Collection Statement

53. The Office of Management and Budget (OMB) regulations require that OMB approve certain information collection requirements imposed by an agency.[92] The Final Rule's revisions to the information collection requirements for market-based rate sellers were approved under OMB Control Nos. 1902–0234. While this order clarifies aspects of the existing information collection requirements for the market-based rate program, it does not add to these requirements. Accordingly, a copy of this order will be sent to OMB for informational purposes only.

V. Document Availability

54. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

55. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

56. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or e-mail at *ferconlinesupport@ferc.gov*, or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. E-mail the Public Reference Room at *public.referenceroom@ferc.gov*.

VI. Effective Date

57. Changes adopted in this order on rehearing will become effective April 26, 2010.

List of Subjects in 18 CFR Part 35

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

By the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

■ In consideration of the foregoing, the Commission amends Part 35 Chapter I, Title 18, *Code of Federal Regulations,* as follows:

PART 35—FILING OF RATE SCHEDULES AND TARIFFS

■ 1. The authority citation for Part 35 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

■ 2. Section 35.42 is revised to read as follows:

§ 35.42 Change in status reporting requirement.

(a) As a condition of obtaining and retaining market-based rate authority, a Seller must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority. A change in status includes, but is not limited to, the following:

(1) Ownership or control of generation capacity that results in net increases of 100 MW or more, or of inputs to electric power production, or ownership, operation or control of transmission facilities, or

(2) Affiliation with any entity not disclosed in the application for market-based rate authority that owns or

[87] Order No. 697–C, FERC Stats. & Regs. ¶ 31,291 at P 43.

[88] EEI July 20, 2009 Rehearing Request at 11–12.

[89] In this regard, we note that in accepting a utility's proposed mitigation, the Commission explained that such mitigation is accepted on a prospective basis, and that it is appropriate for existing long-term agreements to remain in effect until terminated pursuant to their terms. *See South Carolina Electric and Gas Co.,* 114 FERC ¶ 61,143, at P 18 (2006).

[90] *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity, and Ancillary Services by Public Utilities,* 126 FERC ¶ 61,072 (2009) (Order Granting Extension of Time to Comply).

[91] *Id.*

[92] 5 CFR 1320.11.

controls generation facilities or inputs to electric power production, affiliation with any entity not disclosed in the application for market-based rate authority that owns, operates or controls transmission facilities, or affiliation with any entity that has a franchised service area.

(b) Any change in status subject to paragraph (a) of this section, other than a change in status submitted to report the acquisition of control of a site or sites for new generation capacity development, must be filed no later than 30 days after the change in status occurs. Power sales contracts with future delivery are reportable 30 days after the physical delivery has begun. Failure to timely file a change in status report constitutes a tariff violation.

(c) When submitting a change in status notification regarding a change that impacts the pertinent assets held by a Seller or its affiliates with market-based rate authorization, a Seller must include an appendix of assets in the form provided in Appendix B of this subpart.

(d) A Seller must report on a quarterly basis the acquisition of control of a site or sites for new generation capacity development for which site control has been demonstrated in the interconnection process and for which the potential number of megawatts that are reasonably commercially feasible on the site or sites for new generation capacity development is equal to 100 megawatts or more. If a Seller elects to make a monetary deposit so that it may demonstrate site control at a later time in the interconnection process, the monetary deposit will trigger the quarterly reporting requirement instead of the demonstration of site control. A notification of change in status that is submitted to report the acquisition of control of a site or sites for new generation capacity development must include:

(1) The number of sites acquired;

(2) The relevant geographic market in which the sites are located; and

(3) The maximum potential number of megawatts (MW) that are reasonably commercially feasible on the sites reported.

(e) For the purposes of paragraph (d) of this section, "control" shall mean "site control" as it is defined in the Standard Large Generator Interconnection Procedures (LGIP).

[FR Doc. 2010–6480 Filed 3–24–10; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2007–1043; FRL–9129–5]

Approval and Promulgation of Air Quality Implementation Plans; Michigan; PSD Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to convert a conditional approval of specified provisions of the Michigan State Implementation plan (SIP) to a full approval. The revisions consist of requirements of the prevention of significant deterioration (PSD) construction permit program under the Federal Clean Air Act (CAA). This program affects major stationary sources in Michigan that are subject to or potentially subject to the PSD construction permit program. EPA is converting its prior conditional approval to full approval because the Michigan Department of Environmental Quality (MDEQ) submitted corrections to the rules that satisfy the conditions listed in EPA's conditional approval. As part of this direct final rule, EPA is rescinding Michigan's delegation of authority for implementing the Federal PSD regulations. This action is being taken under section 110 of the CAA.

DATES: This direct final rule will be effective May 24, 2010, unless EPA receives adverse comments by April 26, 2010. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2007–1043, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: blakley.pamela@epa.gov.*
- *Fax:* (312) 692–2450
- *Mail:* Pamela Blakley, Chief, Air Permits Section, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand Delivery:* Pamela Blakley, Chief, Air Permits Section, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Deliveries are only accepted during the regional office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The regional office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2007–1043. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment.

If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Laura Cossa, Environmental Engineer, at (312) 886–0661 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Laura Cossa, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–0661, *cossa.laura@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background

Michigan Air Pollution Control Rules, Part 18, Rules R 336.2801 [(a) through (tt)] except for (j) and (ff) to R 336.2819 and R 336.2823(1) to (14) ("Part 18") were submitted to EPA for inclusion in the SIP by MDEQ on December 21, 2006. Part 18 relates to the State of Michigan's PSD permit program. Revisions to Part 18 were adopted by MDEQ on December 4, 2006. EPA proposed to conditionally approve the PSD SIP rules under section 110 of the CAA on January 9, 2008 (73 FR 1570). EPA received several comments on its proposal. After considering the comments, EPA finalized its conditional approval of rules R 336.2801 to R 336.2819 (except R 336.2816, "Sources Impacting Federal Class I Areas—Additional Requirements") and R 336.2823(1) to (14) on September 16, 2008 (73 FR 53366). In addition, in a separate action on September 16, 2008, EPA proposed to partially disapprove the portion of Michigan's SIP revision submission consisting of Michigan Rule R 336.2816 (73 FR 53401).

On September 30, 2008, MDEQ submitted the revisions to the SIP, incorporating the corrections required by EPA in the conditional approval. Specifically, the rules revised are R 336.2801(r)(ii) (definition of "emission unit") and R 336.2801(hh) (definition of "potential to emit"). After consideration, EPA concludes that the submitted revisions to the SIP satisfy the conditions listed in EPA's conditional approval, and today is converting its prior conditional approval to full approval. Additionally, EPA is rescinding its delegation of the PSD regulations to Michigan.

The September 30, 2008 letter from Michigan to EPA also mentions revisions to rules R 336.1816(2) through (4), R 336.1801(ee), and R 336.1818(3) and (3)(f). EPA will take separate action on rules R 336.1816(2) through (4) (requirements relating to Class I areas).

Michigan is not authorized to carry out its SIP approved PSD program in "Indian Country", as defined in 18 U.S.C. 1151. Indian Country includes:

1. All lands within the exterior boundaries of Indian reservations within the State of Michigan;

2. Any land held in trust by the U.S. for an Indian Tribe; and

3. Any other land, whether on or off an Indian reservation that qualifies as Indian Country.

Therefore, EPA retains the authority to implement and administer the PSD program in Indian Country.

Because modifications of Rule R 336.1801(ee) ("net emissions increase") and R 336.1818(3) and (3)(f) (the "reasonable possibility" recordkeeping and reporting requirements) are not part of the requirements of the conditional approval, and MDEQ has not previously requested EPA's action on them, EPA is not acting on these modifications at this time. Unless and until these modifications are submitted and approved, they are not part of the SIP.

II. How Michigan's Revisions Satisfy the Terms of the Conditional Approval

Michigan has established the definition of "emissions unit" in R 336.2801(r)(ii). This is consistent with the definition in 40 CFR 51.166(b)(7). Included in both the Federal and State definitions is the statement that a replacement unit is considered an existing unit under this definition. However, Michigan's rules did not define "replacement unit," which is included in the Federal rule at 40 CFR 51.166(b)(32). In a letter sent to EPA on May 17, 2007, Michigan agreed to follow the Federal definition of "replacement unit" in its implementation of these rules, and committed to add the definition in a future rulemaking. In a subsequent letter to EPA, dated November 30, 2007, MDEQ committed to add this definition in the rules not later than one year after EPA's conditional approval of this plan. Therefore EPA conditionally approved this rule on September 16, 2008 (73 FR 53366).

On September 11, 2008, MDEQ adopted the revised rule, at the State level, to include the definition of "replacement unit." The definition is consistent with the definition in 40 CFR 51.166(b)(32). On September 30, 2008, MDEQ submitted the revision of the rule to EPA. EPA finds that this correction satisfies the condition listed in EPA's conditional approval.

Michigan has established the definition of "potential to emit" in rule R 336.2801(hh). This definition is consistent with the definition in 40 CFR 51.166(b)(4), except instead of "federally enforceable," vacated in *Chemical Manufacturers Assn* v. *EPA,* No. 89–1514 (DC Cir. Sept. 15, 1995), the Michigan rules use the more general term "legally enforceable." *See* EPA Interim Policy on Federally Enforceable Requirement for Limitations on Potential to Emit, dated January 22, 1996 ("Interim Policy"). EPA concluded that the use of the term "legally enforceable" was approvable as part of the definition of "potential to emit" because Michigan agreed to apply the term "legally enforceable" in accordance with the Interim Policy to mean "legally and practically enforceable by a State or local air pollution control agency, as well as by the EPA." In general, practicable enforceability for a source-specific permit means that the permit's provisions must specify: (1) A technically-accurate limitation and the portions of the source subject to the limitation; (2) the time period for the limitation (hourly, daily, monthly, and annual limits such as rolling annual limits); and (3) the method to determine compliance including appropriate monitoring, recordkeeping, and reporting. For rules and general permits that apply to categories of sources, practicable enforceability additionally requires that the provisions: (1) Identify the types or categories of sources that are covered by the rule; (2) where coverage is optional, provide for notice to the permitting authority of the source's election to be covered by the rule; and (3) specify the enforcement consequences relevant to the rule.

Michigan committed in a letter dated September 11, 2007, to apply the term "legally enforceable" in a manner consistent with the above, and to revise the rule to make it consistent with this understanding. In a subsequent letter to EPA, dated November 30, 2007, MDEQ committed to add this definition in the rules not later than one year after EPA's conditional approval of this plan. Therefore EPA conditionally approved this rule on September 16, 2008 (73 FR 53366).

On September 11, 2008, MDEQ adopted the revised rule, at the State level, to include in the definition of "potential to emit" the condition that a limitation must be "enforceable as a practical matter by the State, local air pollution control agency, or United States environmental protection agency." The revised definition is consistent with the definition in 40 CFR 51.166(b)(4) and with the Interim Policy dated January 22, 1996. On September 30, 2008, MDEQ submitted to EPA the

revision to the rule. EPA finds that this correction satisfies the condition listed in EPA's conditional approval.

III. Final Action

As explained above, MDEQ submitted revisions to the rules at R 336.2801(r)(ii) (definition of "emission unit") and R 336.2801(hh) (definition of "potential to emit"), and has satisfied the conditions listed in EPA's conditional approval. Therefore, EPA is taking direct final action to convert its conditional approval of Michigan's SIP revisions to a full approval of Michigan's PSD program, with the exception of Rule R 336.2816. EPA is taking separate action on Michigan Rule R 336.2816, which was also included in the State's December 21, 2006, PSD program submission. Because modifications of Rule R 336.1801(ee) ("net emissions increase") and R 336.1818(3) and (3)(f) (the "reasonable possibility" recordkeeping and reporting requirements) were not previously submitted to EPA for approval, EPA is not taking action on these modifications at this time.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the State plan if relevant adverse written comments are filed. This rule will be effective May 24, 2010 without further notice unless we receive relevant adverse written comments by April 26, 2010. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective May 24, 2010.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 regulations, provided that they meet the criteria of the CAA. 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 CAA; 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, additionally, 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 24, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: March 11, 2010.

Walter W. Kovalick Jr.,

Acting Regional Administrator, Region 5.

■ 40 CFR part 52 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 X—Michigan

■ 2. In § 52.1170, the table in paragraph (c) entitled "EPA-Approved Michigan Regulations" is amended by adding a new entry for Part 18 to read as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MICHIGAN REGULATIONS

Michigan citation	Title	State effective date	EPA approval date	Comments
*	*	*	*	*
Part 18. Prevention of Significant Deterioration of Air Quality				
R 336.2801	Definitions	December 4, 2006	March 25, 2010, [Insert page number where the document begins].	All sections except for (j) and (ff), [reserved in original rule].
R 336.2801	Definitions	September 11, 2008	March 25, 2010, [Insert page number where the document begins].	Sections (hh) and (r)(ii).
R 336.2802	Applicability	December 4, 2006	March 25, 2010, [Insert page number where the document begins].	
R 336.2803	Ambient Air Increments	December 4, 2006	March 25, 2010, [Insert page number where the document begins].	
R 336.2804	Ambient Air Ceilings	December 4, 2006	March 25, 2010, [Insert page number where the document begins].	
R 336.2805	Restrictions on Area Classifications.	December 4, 2006	March 25, 2010, [Insert page number where the document begins].	
R 336.2806	Exclusions from Increment Consumption.	December 4, 2006	March 25, 2010, [Insert page number where the document begins].	
R 336.2807	Redesignation	December 4, 2006	March 25, 2010, [Insert page number where the document begins].	
R 336.2808	Stack Heights	December 4, 2006	March 25, 2010, [Insert page number where the document begins].	
R 336.2809	Exemptions	December 4, 2006	March 25, 2010, [Insert page number where the document begins].	
R 336.2810	Control Technology Review	December 4, 2006	March 25, 2010, [Insert page number where the document begins].	
R 336.2811	Source Impact Analysis	December 4, 2006	March 25, 2010, [Insert page number where the document begins].	
R 336.2812	Air Quality Models	December 4, 2006	March 25, 2010, [Insert page number where the document begins].	
R 336.2813	Air Quality Analysis	December 4, 2006	March 25, 2010, [Insert page number where the document begins].	
R 336.2814	Source Information	December 4, 2006	March 25, 2010, [Insert page number where the document begins].	
R 336.2815	Additional Impact Analyses	December 4, 2006	March 25, 2010, [Insert page number where the document begins].	
R 336.2817	Public Participation	December 4, 2006	March 25, 2010, [Insert page number where the document begins].	
R 336.2818	Source Obligation	December 4, 2006	March 25, 2010, [Insert page number where the document begins].	
R 336.2819	Innovative Control Technology.	December 4, 2006	March 25, 2010, [Insert page number where the document begins].	
R 336.2823	Actuals Plantwide Applicability Limits (PALs).	December 4, 2006	March 25, 2010, [Insert page number where the document begins].	Only sections (1) through (14).
*	*	*	*	*

* * * * *

§ 52.1188 [Removed and Reserved]

■ 3. Remove and reserve § 52.1188.

[FR Doc. 2010–6486 Filed 3–24–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2010–000; Internal Agency Docket No. FEMA–8123]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.;* unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region I				
Rhode Island:				
Jamestown, Town of, Newport County	445399	November 20, 1970, Emerg; April 21, 1972, Reg; April 5, 2010, Susp..	Apr. 2, 2010	Apr. 5, 2010.
Little Compton, Town of, Newport County.	440035	May 9, 1975, Emerg; August 17, 1981, Reg; April 5, 2010, Susp..	.....do	Do.
Middletown, Town of, Newport County	445401	September 11, 1970, Emerg; April 9, 1971, Reg; April 5, 2010, Susp..	.....do	Do.
Newport, City of, Newport County	445403	June 19, 1970, Emerg; December 4, 1970, Reg; April 5, 2010, Susp..	.....do	Do.
Portsmouth, Town of, Newport County	445405	July 30, 1971, Emerg; August 24, 1973, Reg; April 5, 2010, Susp..	.....do	Do.
Tiverton, Town of, Newport County	440012	August 18, 1972, Emerg; May 2, 1977, Reg; April 5, 2010, Susp..	.....do	Do.
Region II				
New York:				
Dansville, Village of, Livingston County	360383	April 17, 1973, Emerg; November 1, 1978, Reg; April 5, 2010, Susp..	.....do	Do.
Sparta, Town of, Livingston County	361288	March 6, 1980, Emerg; August 27, 1982, Reg; April 5, 2010, Susp..	.....do	Do.
Region V				
Illinois:				
Andalusia, Village of, Rock Island County.	170583	February 18, 1975, Emerg; January 20, 1982, Reg; April 5, 2010, Susp..	.....do	Do.
Amboy, City of, Lee County	170414	April 8, 1975, Emerg; April 15, 1988, Reg; April 5, 2010, Susp..	.....do	Do.
Carbon Cliff, Village of, Rock Island County.	170584	May 23, 1975, Emerg; June 1, 1982, Reg; April 5, 2010, Susp..	.....do	Do.
Coal Valley, Village of, Rock Island and Henry Counties.	170585	September 26, 1974, Emerg; December 4, 1979, Reg; April 5, 2010, Susp..	.....do	Do.
Cordova, Village of, Rock Island County	170586	April 18, 1975, Emerg; December 1, 1981, Reg; April 5, 2010, Susp..	.....do	Do.
East Moline, City of, Rock Island County.	170587	March 5, 1976, Emerg; October 15, 1982, Reg; April 5, 2010, Susp..	.....do	Do.
Hillsdale, Village of, Rock Island County	170589	February 11, 1974, Emerg; July 19, 1982, Reg; April 5, 2010, Susp..	.....do	Do.
Lee County, Unincorporated Areas	170413	June 6, 1975, Emerg; April 15, 1988, Reg; April 5, 2010, Susp..	.....do	Do.
Milan, Village of, Rock Island County ...	170590	April 3, 1975, Emerg; March 18, 1980, Reg; April 5, 2010, Susp..	.....do	Do.
Moline, City of, Rock Island County	170591	March 4, 1975, Emerg; February 1, 1980, Reg; April 5, 2010, Susp..	.....do	Do.
Nelson, Village of, Lee County	170418	September 30, 1976, Emerg; April 15, 1988, Reg; April 5, 2010, Susp..	.....do	Do.
Reynolds, Village of, Rock Island and Mercer Counties.	170883	March 24, 1998, Emerg; October 18, 2002, Reg; April 5, 2010, Susp..	.....do	Do.
Rochelle, City of, Lee and Ogle Counties.	170532	March 7, 1975, Emerg; August 19, 1986, Reg; April 5, 2010, Susp..	.....do	Do.
Rock Island, City of, Rock Island County.	175171	July 9, 1971, Emerg; June 9, 1972, Reg; April 5, 2010, Susp..	.....do	Do.
Rock Island County, Unincorporated Areas.	170582	May 14, 1971, Emerg; August 2, 1982, Reg; April 5, 2010, Susp..	.....do	Do.
Steward, Village of, Lee County	170420	October 10, 1975, Emerg; September 1, 1987, Reg; April 5, 2010, Susp..	.....do	Do.
Region VI				
Texas:				
Athens, City of, Henderson County	480324	April 10, 1975, Emerg; May 5, 1981, Reg; April 5, 2010, Susp..	.....do	Do.
Chandler, City of, Henderson County ...	480326	March 5, 1976, Emerg; October 24, 1978, Reg; April 5, 2010, Susp..	.....do	Do.
Enchanted Oaks, Town of, Henderson County.	481634	June 20, 1990, Emerg; September 27, 1991, Reg; April 5, 2010, Susp..	.....do	Do.
Henderson County, Unincorporated Areas.	481174	April 8, 1987, Emerg; September 27, 1991, Reg; April 5, 2010, Susp..	.....do	Do.
Mabank, City of, Henderson and Kaufman Counties.	480414	February 22, 1977, Emerg; August 8, 1978, Reg; April 5, 2010, Susp..	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region VII				
Iowa:				
Alburnett, City of, Linn County	190692	March 2, 1976, Emerg; June 1, 1987, Reg; April 5, 2010, Susp..	.....do	Do.
Cedar Rapids, City of, Linn County	190187	August 13, 1971, Emerg; December 15, 1982, Reg; April 5, 2010, Susp..	.....do	Do.
Center Point, City of, Linn County	190439	October 27, 1977, Emerg; July 5, 1982, Reg; April 5, 2010, Susp..	.....do	Do.
Central City, City of, Linn County	190188	January 8, 1976, Emerg; December 15, 1982, Reg; April 5, 2010, Susp..	.....do	Do.
Coggon, City of, Linn County	190189	May 9, 1975, Emerg; July 16, 1984, Reg; April 5, 2010, Susp..	.....do	Do.
Ely, City of, Linn County	190440	April 29, 1991, Emerg; February 17, 1993, Reg; April 5, 2010, Susp..	.....do	Do.
Fairfax, City of, Linn County	190190	January 20, 1975, Emerg; September 19, 1984, Reg; April 5, 2010, Susp..	.....do	Do.
Hiawatha, City of, Linn County	190441	August 3, 1976, Emerg; February 3, 1982, Reg; April 5, 2010, Susp..	.....do	Do.
Linn County, Unincorporated Areas	190829	January 5, 1979, Emerg; December 15, 1982, Reg; April 5, 2010, Susp..	.....do	Do.
Lisbon, City of, Linn County	190607	March 23, 1978, Emerg; June 10, 1980, Reg; April 5, 2010, Susp..	.....do	Do.
Marion, City of, Linn County	190191	June 30, 1975, Emerg; July 5, 1982, Reg; April 5, 2010, Susp..	.....do	Do.
Mount Vernon, City of, Linn County	190192	December 10, 1975, Emerg; June 10, 1980, Reg; April 5, 2010, Susp..	.....do	Do.
Palo, City of, Linn County	190442	June 25, 1976, Emerg; November 17, 1982, Reg; April 5, 2010, Susp..	.....do	Do.
Robins, City of, Linn County	190443	January 16, 1978, Emerg; July 5, 1982, Reg; April 5, 2010, Susp..	.....do	Do.
Springville, City of, Linn County	190444	N/A, Emerg; March 30, 2009, Reg; April 5, 2010, Susp..	.....do	Do.
Walker, City of, Linn County	190445	October 25, 2007, Emerg; April 5, 2010, Reg; April 5, 2010, Susp..	.....do	Do.
Missouri:				
Laddonia, City of, Audrain County	290017	August 1, 1975, Emerg; August 24, 1984, Reg; April 5, 2010, Susp..	.....do	Do.
Mexico, City of, Audrain County	295267	March 19, 1971, Emerg; May 26, 1972, Reg; April 5, 2010, Susp..	.....do	Do.
Vandalia, City of, Audrain County	290020	July 15, 1975, Emerg; February 4, 1988, Reg; April 5, 2010, Susp..	.....do	Do.
Nebraska:				
Ashland, City of, Saunders County	310196	December 4, 1974, Emerg; November 3, 1982, Reg; April 5, 2010, Susp..	.....do	Do.
Cedar Bluffs, Village of, Saunders County.	310356	April 4, 1975, Emerg; September 24, 1984, Reg; April 5, 2010, Susp..	.....do	Do.
Ceresco, Village of, Saunders and Lancaster Counties.	310197	July 18, 1975, Emerg; July 3, 1986, Reg; April 5, 2010, Susp..	.....do	Do.
Ithaca, Village of, Saunders County	310198	November 12, 1975, Emerg; May 1, 1987, Reg; April 5, 2010, Susp..	.....do	Do.
Leshara, Village of, Saunders County	310199	January 29, 2009, Emerg; April 5, 2010, Reg; April 5, 2010, Susp..	.....do	Do.
Malmo, Village of, Saunders County	310200	April 25, 1975, Emerg; September 4, 1986, Reg; April 5, 2010, Susp..	.....do	Do.
Prague, Village of, Saunders County	310202	N/A, Emerg; December 29, 2000, Reg; April 5, 2010, Susp..	.....do	Do.
Saunders County, Unincorporated Areas.	310195	April 6, 1973, Emerg; December 1, 1978, Reg; April 5, 2010, Susp..	.....do	Do.
Valparaiso, Village of, Saunders County	310203	September 16, 1975, Emerg; June 3, 1986, Reg; April 5, 2010, Susp..	.....do	Do.
Wahoo, City of, Saunders County	310204	August 25, 1972, Emerg; December 1, 1977, Reg; April 5, 2010, Susp..	.....do	Do.
Weston, Village of, Saunders County	310205	October 24, 1979, Emerg; July 3, 1985, Reg; April 5, 2010, Susp..	.....do	Do.

Do. = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: March 16, 2010.

Sandra K. Knight,

Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2010–6632 Filed 3–24–10; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 10–280; MB Docket No. 09–190; RM–11566]

FM TABLE OF ALLOTMENTS, Stonewall, Texas

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division denies the petition for rule making filed by Katherine Pyeatt, proposing the allotment of Channel 280A at Stonewall, Texas, as the community's first local transmission service. The reason for the denial is that the proposal is mutually exclusive with a prior–filed and cut–off application for FM Station KXXS that includes a proposal to substitute Channel 280A for Channel 223A at Burnet, Texas. It is Commission policy to protect applications against subsequently–filed and conflicting rule–making proposals. For that reason, the Audio Division denied the petition for rule making and terminated the proceeding without adoption of a final rule.

DATES: Effective 30 days after the date of publication in the Federal Register.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 09–190, adopted February 17, 2010, and released February 19, 2010. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, (800) 378–3160, or via the company's website, www.bcpiweb.com <http://www.bcpiweb.com/>. The Report and Order is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this Report and Order to GAO, pursuant to the Congressional Review Act, see U.S.C. 801(a)(1)(A) because the proposed rule was dismissed.)

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

List of Subjects in 47 CFR Part 73

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 2010–6385 Filed 3–24–10; 8:45 am]

BILLING CODE 6712–01–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910131362–0087–02]

RIN 0648–XV45

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 in the Gulf of Alaska

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

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is reopening directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA) for 72 hours. This action is necessary to fully use the B season allowance of the 2010 total allowable catch (TAC) of pollock in Statistical Area 630 of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 22, 2010, through 1200 hrs, A.l.t., March 25, 2010. Comments must be received at the following address no later than 4:30 p.m., A.l.t., April 9, 2010

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by [RIN], by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal: *http://www.regulations.gov*.
- *Mail:* P.O. Box 21668, Juneau, AK 99802.
- *Fax:* (907) 586–7557.
- *Hand delivery to the Federal Building:* 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comment will generally be posted 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.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

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

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

NMFS closed directed fishing for pollock in Statistical Area 630 of the GOA under § 679.20(d)(1)(iii) on March 10, 2010 (75 FR 11749, March 12, 2010).

As of March 19, 2010, NMFS has determined that approximately 2,700 metric tons of pollock remain in the directed fishing allowance for pollock in Statistical Area 630 of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the B season allowance of the 2010 TAC of pollock in Statistical Area 630 of the GOA, NMFS is terminating the previous closure and is reopening directed fishing pollock in Statistical Area 630 of the GOA. The Administrator, Alaska

Region (Regional Administrator) considered the following factors in reaching this decision: (1) the current catch of pollock in Statistical Area 630 of the GOA and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be reached after 72 hours. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the GOA effective 1200 hrs, A.l.t., March 25, 2010.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of pollock in Statistical Area 630 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 19, 2010.

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

Without this inseason adjustment, NMFS could not allow the fishery for pollock in Statistical Area 630 of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until April 9, 2010.

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: March 22, 2010.

Emily H. Menashes,

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

[FR Doc. 2010–6631 Filed 3–22–10; 4:15 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 75, No. 57
Thursday, March 25, 2010

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

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 417 and 418

[FDMS Docket Number FSIS–2008–0025]

RIN 0583–AD34

Notification, Documentation, and Recordkeeping Requirements for Inspected Establishments

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to implement provisions of the Food, Conservation, and Energy Act of 2008 by adopting regulations that require official establishments to promptly notify the appropriate District Office that an adulterated or misbranded meat or poultry product has entered commerce; require official establishments to prepare and maintain current procedures for the recall of meat and poultry products produced and shipped by the establishment; and require official establishments to document each reassessment of the establishment's process control plans, that is, its Hazard Analysis and Critical Control Point plans.

DATES: Comments due on or before May 24, 2010.

ADDRESSES: FSIS invites interested persons to submit comments on this proposed rule. Comments may be submitted by either of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov*. Follow the online instructions at that site for submitting comments.
- *Mail, including CD–ROMs, and hand- or courier-delivered items:* Send to Docket Clerk, U.S. Department of Agriculture (USDA), FSIS, Room 2–2127 George Washington Carver Center, 5601 Sunnyside Avenue, Beltsville, MD 20705.

Instructions: All items submitted by mail or via Regulations.gov must include the Agency name and docket number FSIS–2008–0025. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov*.

Docket: For access to background documents or comments received, go to the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Philip Derfler, Assistant Administrator, Office of Policy and Program Development, Room 350–E, Jamie L. Whitten Building, 1400 Independence Avenue, SW., Washington, DC 20250; Telephone (202) 720–2709, Fax (202) 720–2025.

SUPPLEMENTARY INFORMATION:

Background

FSIS administers the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601–695), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451–470), and the regulations that implement these Acts. Under these statutes and rules, the Agency is responsible for ensuring that the nation's commercial supply of meat and poultry is safe, not adulterated, wholesome, and properly marked, labeled, and packaged.

On June 18, 2008, section 11017 of the Food, Conservation, and Energy Act of 2008, Public Law 110–246, 122 Stat 1651, 448–49, otherwise known as the 2008 Farm Bill, amended the FMIA and the PPIA by adding new sections 12 and 13 to the FMIA (21 U.S.C. 612 and 613) and amending section 10 of the PPIA (21 U.S.C. 459). Section 12 of the amended FMIA and section 10(b) of the amended PPIA require establishments subject to inspection under the Acts that believe, or have reason to believe, that an adulterated or misbranded meat, meat food, poultry, or poultry product received by or originating from the establishment has entered into commerce, to promptly notify the Secretary of Agriculture of that belief. They also require these establishments to inform the Secretary of the type, amount, origin, and destination of the adulterated or misbranded product.

Section 13 of the amended FMIA and section 10(c) of the amended PPIA also require establishments subject to inspection under these statutes to: (1) Prepare and maintain current procedures for the recall of all meat, meat food, poultry, and poultry products produced and shipped by the establishment; (2) document each reassessment of the establishment's process control plans, *i.e.,* its Hazard Analysis and Critical Control Point (HACCP) plans; and (3) make the recall procedures and written records of the establishment's HACCP plan reassessments available for official review and copying.

FSIS is proposing regulations to implement these new statutory provisions. Establishments subject to inspection under the Acts are official meat [1] and poultry products [2] establishments.

I. Notification Requirement

The FMIA and PPIA, and their implementing regulations, prohibit the sale, transport, offer for sale or transportation, or receipt for transportation in commerce of any meat, meat food, poultry, or poultry products (hereinafter referred to as meat or poultry products) that are capable of use as human food and are adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation by any person,[3] firm,[4] or corporation.[5] The FMIA also prohibits the importation of adulterated or misbranded [6] meat and meat food products, while the PPIA prohibits the importation of adulterated [7] poultry or poultry products. Imported meat and poultry products must also "* * *

[1] 9 CFR 301.2. *Official establishment* means any slaughtering, cutting, boning, meat canning, curing, smoking, salting, packing, rendering, or similar establishment at which inspection is maintained under the regulations in this subchapter.

[2] 9 CFR 381.1. *Official establishment* means any establishment as determined by the Administrator at which inspection of the slaughter of poultry, or the processing of poultry products, is maintained pursuant to the regulations.

[3] 21 U.S.C. 453(j). A person is "any individual, partnership, corporation, association, or other business unit."

[4] 21 U.S.C. 601(b). A firm is "any partnership, association, or other unincorporated business organization."

[5] 21 U.S.C. 610(c)(1) and 9 CFR 320.7, and 21 U.S.C. 458(a)(2) and 9 CFR 381.181.

[6] 21 U.S.C. 620(a)

[7] 21 U.S.C. 466(a)

comply with the rules and regulations made by the Secretary of Agriculture to assure that they comply with the standards provided for in * * *" the Act, including the misbranding provision found in 21 U.S.C. 458(a)(2).

While the Federal meat and poultry products inspection regulations have provisions that address the receipt of adulterated or misbranded products by an official establishment or consignee under specific circumstances,[8] they do not explicitly require establishments subject to inspection under the FMIA or PPIA to notify FSIS[9] when an adulterated or misbranded product received by or originating from the establishment has entered commerce. Therefore, in accordance with section 11017 of the 2008 Farm Bill and the newly enacted sections 12 of the FMIA and 10(b) of the PPIA, FSIS is proposing to require that official establishments promptly notify the appropriate District Office that an adulterated or misbranded product received by or originating from the establishment has entered commerce, if the establishment believes or has reason to believe that this has happened. FSIS is also proposing to require that the establishment inform the District Office of the type, amount, origin, and destination of the adulterated or misbranded product.[10]

If this proposed rule becomes final, the required information concerning the type of product will need to include the product name, any code or lot numbers on the individual packages or cases, and the type and size of the packages. Information concerning the origin and destination of the product will need to include the official establishment numbers and addresses of both the producing establishment and the receiving establishment, or, if the product is not going, or is not only going, to an official establishment, the names and addresses of any facilities to which the product has been shipped.

The new notification provisions of the FMIA and PPIA do not provide an explicit timeframe within which notification must be given. However, the purpose of notification is to ensure that potentially adulterated or misbranded product is removed from commerce as quickly as possible. Thus, FSIS is proposing to require that official establishments notify the appropriate District Office as quickly as possible, but within 48 hours of learning or determining that an adulterated or misbranded product received by or originating from the establishment has entered commerce. FSIS requests comment on whether 48 hours is an appropriate time in which to expect official establishments that have shipped or received, or have reason to believe that they have shipped or received, adulterated or misbranded product, to notify the appropriate District Office of that situation.

II. Documentation and Recordkeeping

A. Recall Procedures

The FMIA and PPIA require Federal inspection[11] and provide for Federal regulation of meat and poultry products prepared for distribution in commerce for use as human food.[12] Before enactment of the 2008 Farm Bill, there was no requirement that official establishments prepare and maintain written procedures for the recall of meat and poultry products produced and shipped by them, although FSIS strongly recommended that establishments do so. Such a plan involves preparing and maintaining detailed, written recall plans or procedures that specify how the firm will decide whether to conduct a product recall, and how the establishment will effect the recall should it decide that one is necessary.[13]

Under newly enacted section 13 of the FMIA and section 10(c) of the PPIA, the preparation and maintenance of written, up-to-date recall procedures are mandatory. Therefore, FSIS is proposing to require that official meat and poultry establishments prepare and maintain written procedures for the recall of meat or poultry products produced or shipped by an establishment for use should it become necessary for the establishment to remove such products from commerce. FSIS is proposing to require that these written procedures specify how the official establishment will decide whether to conduct a product recall, and how the establishment will effect the recall. Consistent with the 2008 Farm Bill, the proposed rule requires that these procedures be available for official review and copying.

Under the proposed rule, recall procedures will not have to be included in an establishment's HACCP plan or used as a prerequisite program, as long as each official establishment has procedures that meet the requirements of 9 CFR 418.2. These could, however, be incorporated into HACCP plans or prerequisite programs as corrective actions to be followed to address deviations that resulted in the shipment of adulterated or misbranded product in commerce. 9 CFR 417.3 requires that HACCP plans identify corrective actions to be followed in response to a deviation from a critical limit.

FSIS requests comment on when, after the effective date of this rule, assuming it becomes final, written recall procedures must be completed in accordance with proposed § 418.3. FSIS is also seeking comment as to within what time from new establishments must prepare written recall procedures.

B. Process Control Plans

HACCP is a science-based process control system for food safety that promotes systematic prevention of biological, chemical, and physical hazards. HACCP plans are establishment-developed process control plans designed to identify and prevent hazards before they occur and to correct problems if they are detected.

FSIS requires every official establishment to develop and implement a written HACCP plan covering each product produced by that establishment whenever a hazard analysis reveals one or more food safety hazards that are reasonably likely to occur in the production process.[14] Official establishments must reassess the adequacy of their HACCP plans at least annually and whenever any changes occur that could affect the hazard analysis or alter the HACCP plan.[15] 9 CFR 417.4(a)(3) contains examples of changes that could affect the hazard analysis or alter the HACCP plan.

FSIS has, on occasion, notified the public when changes have occurred that could affect the hazard analysis or alter the HACCP plans for particular products. For example, FSIS notified the public of the availability of new scientific data indicating that

[8] *See, e.g.,* 9 CFR 318.1(j), "If any slaughtered poultry or poultry products or other articles are received at an official establishment and are suspected of being adulterated or misbranded under the Poultry Products Inspection Act or the Federal Food, Drug, and Cosmetic Act, or applicable State law, the appropriate governmental authority will be notified." *See also* 9 CFR 320.7 and 381.181, which require the consignee of any product that bears an official inspection legend that refuses to accept the delivery of the product on the grounds that it may be adulterated or misbranded to notify the Inspector in Charge of the kind, quantity, source, and present location of the product and the respects in which it is alleged to be adulterated or misbranded.

[9] The functions of the Secretary of Agriculture contained in the FMIA and the PPIA are delegated to the Under Secretary for Food Safety in 7 CFR 2.18. These functions, in turn, are delegated to the Administrator, Food Safety and Inspection Service in 7 CFR 2.53.

[10] Proposed 9 CFR 418.2.

[11] 21 U.S.C. 603(a), 604, 606, and 455.

[12] 21 U.S.C. 602 and 451.

[13] *See* Attachment 1 to FSIS Directive 8080.1, Revision 5, *Product Guidelines for Firms,* which discusses the elements that should be addressed by a recall plan.

[14] 9 CFR 417.2(b)(1).

[15] 9 CFR 417.4(a)(3).

Escherichia coli (*E. coli*) O157:H7 was more prevalent than was previously thought (67 FR 62326, Oct. 7, 2002) and notified the public of *E. coli* O157:H7 outbreaks associated with the consumption of mechanically tenderized beef (70 FR 30331, May 26, 2005).

Under FSIS's regulations, the reassessment required by 9 CFR 417.4(a)(3) does not have to be documented. The 2008 Farm Bill changes this situation. It requires that official establishments document each reassessment of their process control plans. Therefore, this rule proposes to require that official establishments make a written record when they perform reassessment as required by 9 CFR 417.4(a)(3) or for any other reason. The Agency is proposing to require that establishments document the reasons for any changes that they made to their HACCP plans based on the reassessment, or, if they did not make any changes, that they document the reasons that they did not. If, however, an establishment performs its annual reassessment and determines that no changes are needed to its HACCP plan, it may briefly state this fact in lieu of more extensive documentation. Consistent with the statute, official establishments must make all documentation of the reassessment available for official review and copying.[16]

Documenting reassessments is important for a number of reasons. It will facilitate verification that establishments are actually reassessing their HACCP plans. Without a record, this has proven difficult to do. It will also help FSIS personnel to identify whether there are emerging hazards that the establishment has decided not to address. Finally, a record of reassessments will help an establishment to track the situation in its operation over time.

If this proposed rule becomes final, official establishments will be able to maintain these records on computers (9 CFR 417.5(d)), and establishments will be required to retain the records for up to two years, as prescribed in 9 CFR 417.5(e).

If this proposed rule becomes final, foreign countries that export meat and poultry products to the United States will be expected to establish requirements equivalent to those that FSIS is proposing in this rulemaking, or to establish why their system remains equivalent if they fail to do so.

[16] *See* § 417.5(f).

Executive Order 12866 and Regulatory Flexibility Act

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

I. Background

The Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246, Sec. 11017), known as the 2008 Farm Bill, amended the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) to require establishments subject to inspection under these Acts to promptly notify the Secretary of Agriculture that an adulterated or misbranded product received by or originating from the establishment has entered into commerce, if the establishment believes or has reason to believe that this has happened. Section 11017 also requires establishments subject to inspection under the FMIA and PPIA to: (1) Prepare and maintain procedures for the recall of all products produced and shipped by the establishment; (2) document each reassessment of the process control plans of the establishment (*i.e.,* HACCP plans); and (3) upon request, make the procedures and reassessed control plans available for inspectors appointed by the Secretary to review and copy.

II. What Is Being Proposed

This proposed action will amend 9 CFR 417.4 (a)(3) to require that every establishment make a written record of each reassessment of the adequacy of its process control plan, *i.e.,* HACCP plan, or to document the reasons for not making a change to the HACCP plan based on the reassessment (except for annual reassessments of the HACCP plan, for which, if no change is found necessary, only the fact that the reassessment occurred need be documented). It will also establish a new 9 CFR Part 418, *Recalls,* under which official establishments will have to promptly notify FSIS that an adulterated or misbranded product received by or originating from the establishment has entered into commerce, if the establishment believes or has reason to believe that this has happened, and prepare and maintain current procedures for the recall of products produced and shipped by the establishment if there is a reason to believe that its product are adulterated or misbranded.

III. Need for the Proposed Rule

- FSIS believes that prompt notification that adulterated or misbranded product has entered commerce is an important prerequisite for effective action to prevent such product from causing harm.
- Having established procedures will help establishments to conduct effective and efficient recalls, should it be necessary for them to do so.
- Moreover, records of reassessments will help establishment and Agency personnel to assess the adequacy and appropriateness of what has been done.

IV. Baseline

FSIS expects that this proposed rule will affect about 6,300 official establishments that slaughter or process meat, meat food, poultry, and poultry products, based on FSIS's Performance Based Inspection System (PBIS) of 2008. Based on HACCP classification, about 400 are large establishments, 3,044 are small, and 2,856 are very small (Table 3).

V. Expected Costs

Under the current regulations, the development and maintenance of recall procedures and the written documentation of HACCP reassessments are voluntary. This proposed rule will make them mandatory. Costs occur because about 6,300 official establishments will need to develop recall procedures, maintain written documentation of HACCP reassessments, and make the records accessible to the Agency's review. The Agency used in this analysis the best available data, based on discussions with FSIS experts. FSIS solicits costs data from other sources to be sure that the Agency is using the best available data. The methodology of the labor cost estimates is as follows:

(1) Developing Recall Procedures = Number of establishments [17] × hours [18] × wage rate [19]

(2) Documenting HACCP Reassessment = Number of establishments × hours × response rate [20] × wage rate

(3) Records Backup and Storage = Number of establishments × hours × response rate × wage rate

Since estimates of all of the above factors are provided by experts in the related fields, not collected directly from related establishments, FSIS invites comments and inputs from industries likely to improve the cost

[17] The number of establishments is the number of Federally-inspected processing and slaughter establishments.

[18] Hours are labor hours likely spent on the required provisions.

[19] The wage rate is estimated according to the current labor market and the nature of work, including all non-salary benefits to workers.

[20] Response rate is the projected frequencies of an action within a year.

estimation. In particular, FSIS welcomes comments on the total cost and the annual cost estimation related to the notification, documentation, and recordkeeping provisions affected by this proposed rule.

The cost of notifying FSIS, with a few phone calls, facsimiles, and e-mails about questionable products in commerce is negligible. FSIS certifies that there will be no impact on the Agency's operational costs resulting from this proposed rule, because the Agency will not need to add any staff or incur any non-labor expenditure if the proposed rule is adopted.

In addition to the labor cost, FSIS estimates that the extra material cost would be about 1 percent of the labor cost of the development of the recall procedures and the documenting of each reassessment or the documenting that no changes to the HACCP plan were found necessary based on the reassessment. For the cost estimation of records backup and storage, the ratio of labor cost versus material cost was estimated to be 2:1, or 2 thirds labor cost versus 1 third material cost. These costs are significantly mitigated by the fact that FSIS has guidance materials on preparing recall plans available. *See* footnote 16, above. The material cost would mostly be paper, ink, and electronic storage media. The estimated total average costs of about $5 million for labor and $76 thousand for materials are shown in Table 1.

Considering the facts that: (1) Some unknown number of establishments already have plans which could likely be adequate with little or no change, (2) establishments in the meat and poultry industries have differing levels of expertise in writing HACCP plans, (3) the Agency makes model recall plans available to the industry, and (4) establishments have a range of different processes for producing meat and poultry products, FSIS believes that the estimated cost of developing recall procedures tends to be overstated by using the maximum number of establishments. However, given the uncertainty of incurred labor cost in different regions and with various experience levels, FSIS assumes a 20% range, or plus and minus 10%, of the estimated average-compliance cost. The estimated cost summary is shown in Table 2.

FSIS expects that in the first year of the proposed rule, one-time costs for developing recall procedures would cost the industry of approximately 6,300 establishments $4.5 million, in an estimated range of $4.0 and $4.9 million, 10% lower and upper bound, respectively. Furthermore, the proposed rule would have first year and recurring costs of approximately $0.5 million for documenting periodical reassessments of HACCP plans, and $0.1 million for records backup and storage, although these costs may well be overstated. Thus, the total cost for the first year is $5.0 ($4.4 + $0.5 +$0.1) million, in an estimated range of $4.6 and $5.6 million, 10% lower and upper bound, respectively. The average cost adjusted with a 3% inflation rate of following years would be $0.7 ($0.5 + $0.2) million, in an estimated range of $0.6 and $0.8 million, 10% lower and upper bound, respectively (Table 2).

The present value of total estimated costs with a 3% discount rate for 10 years would be $4.3 million, in an estimated range of $3.9 and $4.8 million, 10% lower and upper bound, respectively. The present value of estimated costs with a 7% discount rate for 10 years would be $3.6 million, in an estimated range of $3.2 and $3.9 million, 10% lower and upper bound, respectively. The above present values of estimated costs were calculated in year 2003 dollars, with 7% and 3% discount rates, in accordance with OMB Circular A–4 requirements (Table 2).

Table 3 shows the drilled-down costs in establishment size, of which $0.3 million is attributed to large, $2.5 million to small, and $2.3 million to very small establishments. The cost per official establishment is between $700 and $900, 10% lower and upper bound, respectively.

Table 4 gives the estimated annual and total cost by establishment size classes for the first five years. Table 4, column 4, shows all cost categories of the first year (assumed to be 2010) and comes from Table 3 column 3, distributed by the counts of establishment size classes. The costs of following year, in Table 4, columns 5–8, are based on annual recurring costs (Table 2), compounded at the 3% inflation rate for the following four years. FSIS expects that the first five years of the proposed rule, if adopted, would cost the industry of approximately 6,300 establishments $7.9 million, in an estimated range of $7.1 and $8.7 million, 10% lower and upper bound, respectively. The present value of a 2009 dollar at 7% is $5.6 million, in the range of $5.1 million to $6.2 million, minus and plus 10%, respectively. The present value of a 2009 dollar at 3% is $6.8 million, in the range of $6.1 million to $7.5 million, minus and plus 10%, respectively. Total costs of the first five years for small/very small and large establishments as a central estimate are $7.4 million and $0.5 million, respectively; the average recurring cost after the first year for small/very small and large establishments will be $0.7 million and $0.04 million, respectively.

TABLE 1—FIRST YEAR COST BREAK-DOWN, IN DOLLARS, FOR 6,300 ESTABLISHMENTS

Cost component	Response rate	Required man hours	Wage rate	Factor for paper, ink & media cost	Material (paper, ink & media) cost (×$1,000)	Total cost (×$1,000)
	(1)	(2)	(3)	(4)	(5)=(4)×(6)	(6)=(1)×(2)×(3)×(4)×6.3
Recall-Procedures development (one-time)	1	20	35	1.01	44	4,454
Documenting Reassessment	5	0.25	60	1.01	5	477
Records backup and storage	1	0.25	35	1.5	28	83
Total					77	5,014

TABLE 2—ESTIMATED FIRST YEAR TOTAL COST AND AVERAGE COST OF FOLLOWING YEAR

	Total cost (×$ million)	Low-range estimate (−10%)	High-range estimate (+10%)
(A) Recall-Procedures development (one-time)	4.4	4.0	4.9
(B) Documenting Reassessment	0.5	0.4	0.5
(C) Records backup and storage	0.1	0.1	0.1
(D) First Year Cost (Total) (D=A+B+C)*	5.0	4.6	5.6
Average Cost of Following Years (for next 10 years)	0.7	0.6	0.8
Present Value (2003) at 3%	4.3	3.9	4.8
Present Value (2003) at 7%	3.6	3.2	3.9

* Note: Summation is subject to rounding error.

TABLE 3—NUMBER OF ESTABLISHMENTS, AND TOTAL AND AVERAGE COST IN SIZE (× $1,000)

HACCP class	Number of establishments	Recall procedures development (one-time)	Documenting HACCP reassessment	Records backup and storage	Total cost	Cost per establishment	Low estimates (−10%)	High estimates (+10%)
Very Small	2,856	2,030	218	38	2,285	0.8	0.7	0.9
Small	3,044	2,164	232	40	2,436	0.8	0.7	0.9
Subtotal	5,900	4,194	449	78	4,721	0.8	0.7	0.9
Large	400	260	28	5	293	0.8	0.7	0.9
Total	6,300	4,454	477	83	5,014	0.8	0.7	0.9

TABLE 4—ESTIMATED ANNUAL AND 5-YEAR TOTAL COST BY ESTABLISHMENT SIZE CLASSES (×$1,000), ASSUMING INFLATION RATE = 3%

HACCP Class	Number of Establishments	Activities	1st Year (2010)	2nd Year (2011)	3rd Year (2012)	4th Year (2013)	5th Year (2014)	5-Year Total
Very Small	2,856	Recall-Procedures development & updating	2,030	278	286	295	304	3,193
		Documenting HACCP Reassessment	218	30	31	32	33	342
		Records backup and storage	38	5	5	5	6	59
		Subtotal	2,285	313	322	332	342	3,594
Small	3,044	Recall-Procedures development & updating	2,164	296	305	314	324	3,403
		Documenting HACCP Reassessment	232	32	33	34	35	365
		Records backup and storage	40	5	6	6	6	63
		Subtotal	2,436	333	343	354	364	3,831
Small & Very Small	5,900	Subtotal	4,721	646	666	686	706	7,425
Large	400	Recall-Procedures development & updating	260	36	37	38	39	409
		Documenting HACCP Reassessment	28	4	4	4	4	44
		Records backup and storage	5	1	1	1	1	8
		Subtotal	293	40	41	43	44	461
Total All	6,300	Recall-Procedures development & updating	4,454	610	628	647	666	7,005
		Documenting HACCP Reassessment	477	65	67	69	71	751
		Records backup and storage	83	11	12	12	12	130
		Total	5,014	686	707	728	750	7,886

VI. Expected Benefits

Expected benefits will likely result from this proposed rule, which is intended to improve the effectiveness of the nation's food safety system for meat and poultry products. These benefits will not be monetized in this section because quantified data on benefits attributable to this proposed rule are not available to FSIS. FSIS solicits data that would permit the monetization of the expected benefits. However, without discussing monetized benefits, FSIS would expect to gain the following benefits related to:

HACCP Reassessment and Documentation of Reassessments

While HACCP reassessment is already required by 9 CFR 417, requiring establishments to document in writing each reassessment of their HACCP plans or the reasons for not making changes to the HACCP plan based on the reassessment will allow establishment supervisory and audit personnel, as well as FSIS personnel, to verify that establishments are, in fact, reassessing those plans at least annually, as required by § 417.4(a)(3), and that they are appropriately assessing their findings when they do (although FSIS is proposing not to require an explanation if no change is made to the HACCP plan on the basis of the annual reassessment). Requiring these written reassessments to

be made available to inspection program personnel ensures that the records are prepared and available.

Notification Requirement

In addition, this proposed rule will likely be a preventive measure that will result in FSIS being alerted to potential meat and poultry recall situations earlier than otherwise is the case today. If this proposed rule is adopted, establishments will be required to notify the local FSIS District Office within 48 hours of learning or determining that an adulterated or misbranded product received by or originating from the establishment has entered commerce, if the establishment believes or has reason to believe that this has happened. This notification, in turn, will allow FSIS to begin coordinating more rapidly preliminary inquiries to determine whether a recall is necessary.

Improve Recall Effectiveness With Documented Procedures

FSIS expects that this proposed rule will likely assist meat and poultry establishments during recalls. By requiring these establishments to prepare and maintain recall procedures for all products they produce, FSIS expects that establishments that do not currently have such plans will likely be able to act more effectively to remove adulterated or misbranded products from commerce. This added efficiency and effectiveness should help establishments to move quickly to disseminate information about the need to return the product to it and thus maximize the amount of product it will be able to recover. Table 5 gives a summary of the benefits discussed above.

TABLE 5—SUMMARY OF BENEFITS

Benefit related to:	Required actions:	Expected benefits:
Document Reassessment	• Establishments are to document all reassessments of HACCP plans. • Establishments are to make the documentation of the HACCP plans available to inspection program personnel. • FSIS is to verify that establishments are, in fact, reassessing their HACCP plans at least annually.	• Improved HACCP systems for establishments.
Notification Requirement	• Establishments are to notify the local FSIS District Office within 48 hours of learning or determining that an adulterated or misbranded product received by or originating from the official establishment has entered commerce.	• FSIS will be alerted to potential meat or poultry recall situations earlier than otherwise is the case today. • FSIS will be able to begin coordinating more rapidly preliminary inquiries to determine whether a recall is necessary.
Improve Recall Effectiveness	• Establishments are to prepare and maintain recall procedures for all products they produce.	• Establishments will likely be able to act more effectively to remove adulterated or misbranded products from commerce. • Establishments may be able to move more quickly to disseminate information about the need to return the product to it. • Establishments may be able to maximize the amount of product they will be able to recover.

VII. Flexibility Analysis

The FSIS Administrator has certified that this proposed rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601).

These small entities are about 5,900 federally-inspected establishments. The average cost to small and very small businesses will be in the range of $700 to $900, 10% lower and upper bound, respectively (Table 3). FSIS invites small (with more employees than 10 but less than 500) and very small (with fewer than 10 employees) establishments to comment on the cost estimation of documentation and reassessment required under the proposed rule.

Based on data recorded in the PBIS (2007) [21] volume database, and slaughter volume recorded in the FSIS Animal Disposition Reporting System (ADRS, 2008) [22] database, and volume estimates of the USDA Economic Research Service (ERS, 2009),[23] these 5,900 small entities process about 12 percent or about 8 billion pounds of the U.S. meat and poultry food supply per annum. Further, FSIS estimated that the average processing volume per establishment of 5,900 small entities was about 1.4 million pounds (8,000,000,000/5,900) per annum. Thus, the average cost for the first year of this proposed rule to small entities will be less than one tenth of one cent (*i.e.,* $0.0006 = $800/1,400,000) of meat and poultry food products per pound. This is a relatively insignificant cost to the small entities because most of their meat and poultry food products are valued at more than $1.00 per pound. The average cost for the following years, based on annual recurring costs, decreases to less than one hundredth of one cent per pound.

[21] USDA, FSIS Performance Based Inspection System Volume Database 2007.

[22] USDA, FSIS Animal Disposition Reporting System Database 2008.

[23] USDA, Economic Research Service, Food Availability (Per Capita) Data System—Per capita food availability data compiled reflect the amount of food available for human consumption in the United States. March 2009, *http://www.ers.usda.gov/Data/FoodConsumption.*

VIII. Alternatives

The option of no rulemaking is unavailable. FSIS was directed to conduct this rulemaking by Congress.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. When this final rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Requirements

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this proposed rule have been submitted for approval to OMB.

Title: Notification, and Recall Procedure and HACCP Reassessment Documentation Requirements.

Type of Collection: New.

Abstract: Under this proposed rule, FSIS is requiring three information collection activities. First, FSIS is proposing to require that official establishments notify the appropriate District Office that an adulterated or misbranded product received by or originating from the establishment has entered commerce, if the establishment believes or has reason to believe that this has happened. FSIS is proposing that this notification occur as quickly as possible, but within 48 hours of the establishment learning or determining that an adulterated or misbranded product received by or originating from it has entered commerce. Second, FSIS is also proposing that establishments prepare and maintain current, written procedures for the recall of meat and poultry products produced and shipped by the establishment for use should it become necessary for the establishment to remove product from commerce. These written recall procedures will have to specify how the establishment will decide whether to conduct a product recall and how the establishment will effect the recall, should it decide that one is necessary. Finally, FSIS is proposing that establishments document each reassessment of the establishment's HACCP plans. The Agency is proposing to require that establishments document the reasons for any changes that they make to their HACCP plans based on the reassessment, or if they did not make any changes, that they document the reasons that they did not (although FSIS is proposing not to require an explanation if no change is made to the HACCP plan on the basis of the annual reassessment). The recall procedures and reassessment documentation will have to be made available for official review and copying.

Estimate of Burden of Average Hours per Response: 1.159.

Respondents: Official meat and poultry products establishments.

Estimated Number of Respondents: 6,300.

Estimated Number of Responses: 40,960.

Estimated Number of Responses per Respondent: 6.5.

Estimated Total Annual Burden on Respondents: 47,475.

Copies of this information collection assessment can be obtained from John O'Connell, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, Room 6081, South Agriculture Building, 1400 Independence Avenue, SW., Washington, DC 20250.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both John O'Connell, Paperwork Reduction Act Coordinator, at the address provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

E–Government Act Compliance

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

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2010_Proposed Rules_Index/*. FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an e-mail subscription service that provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/*. Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

List of Subjects in 9 CFR Parts 417 and 418

Hazard Analysis and Critical Control Point (HACCP) Systems, Meat inspection, Poultry and poultry products inspection, Reporting and recordkeeping requirements, Recalls.

For the reasons discussed in the preamble, FSIS is proposing to amend 9 CFR Chapter III, as follows:

1. The authority citation for part 417 continues to read as follows:

Authority: 7 U.S.C. 450; 21 U.S.C. 451–470, 601–695; 7 U.S.C. 1901–1906; 7 CFR 2.18, 2.53.

2. In § 417.4, paragraph (a)(3) is redesignated as paragraph (a)(3)(i), and a new paragraph (a)(3)(ii) is added to read as follows:

§ 417.4 Validation, Verification, Reassessment.

* * * * *

(a) * * *

(3) *Reassessment of the HACCP plan.*

(i) * * *

(ii) Each establishment shall make a record of each reassessment required by paragraph (a)(3)(i) of this section and shall document the reasons for any changes to the HACCP plan based on the reassessment, or the reasons for not changing the HACCP plan based on the reassessment; for annual reassessments, if the establishment determines that no changes are needed to its HACCP plan, it may briefly document this determination.

* * * * *

3. A new part 418 is added to read as follows:

PART 418—RECALLS

Sec.
418.1 [Reserved]
418.2 Notification.
418.3 Preparation and maintenance of current, written recall procedures.
418.4 Records.

Authority: 7 U.S.C. 450; 21 U.S.C. 451–470, 601–695; 7 CFR 2.18, 2.53.

§ 418.1 [Reserved]

§ 418.2 Notification.

Each official establishment shall promptly notify the local FSIS District Office (*see* 9 CFR 300.3(c)) within 48 hours of learning or determining that an adulterated or misbranded meat, meat food, poultry, or poultry product received by or originating from the official establishment has entered commerce, if the official establishment believes or has reason to believe that this has happened. The official establishment shall inform the District Office of the type, amount, origin, and destination of the adulterated or misbranded product.

§ 418.3 Preparation and maintenance of current, written recall procedures.

Each official establishment shall prepare and maintain written procedures for the recall of any meat, meat food, poultry, and poultry product produced and shipped by the official establishment for use should it become necessary for the official establishment to remove product from commerce. These written procedures shall specify how the official establishment will decide whether to conduct a product recall, and how the establishment will effect the recall, should it decide that one is necessary.

§ 418.4 Records.

All records, including records documenting procedures required by this part, shall be available for official review and copying.

Done in Washington, DC, on March 19, 2010.

Alfred V. Almanza,

Administrator.

[FR Doc. 2010–6629 Filed 3–24–10; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket No. EERE–2008–BT–STD–0006]

RIN 1904–AB47

Energy Conservation Standards for Residential Central Air Conditioners and Heat Pumps: Public Meeting and Availability of the Preliminary Technical Support Document

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of public meeting and availability of preliminary technical support document.

SUMMARY: The U.S. Department of Energy (DOE) will hold a public meeting to discuss and receive comments on the product classes that DOE plans to analyze for purposes of establishing energy conservation standards for residential central air conditioners and heat pumps; the analytical framework, models, and tools that DOE is using to evaluate amended standards for these products; the results of preliminary analyses performed by DOE for these products; and potential energy conservation standard levels derived from these analyses that DOE could consider for these products. DOE also encourages written comments on these subjects. DOE has prepared a preliminary technical support document (TSD), which is available at:

http://www1.eere.energy.gov/buildings/appliance_standards/residential/central_ac_hp.html.

DATES: DOE will hold a public meeting on Wednesday, May 5, 2010, from 9 a.m. to 5 p.m. in Washington, DC. Any person requesting to speak at the public meeting should submit such request, along with an electronic copy of the statement to be given at the public meeting, before 4 p.m., Wednesday, April 21, 2010. Written comments are welcome, especially following the public meeting, and should be submitted by May 10, 2010.

ADDRESSES: The public meeting held at the U.S. Department of Energy, Forrestal Building, Room GE–086, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Please note that foreign nationals participating in the public meeting are subject to advance security screening procedures. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Ms. Brenda Edwards at (202) 586–2945 so that the necessary procedures can be completed.

Interested persons may submit comments, identified by docket number EERE–2008–BT–STD–0006, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov* Follow the instructions for submitting comments.
- *E-mail: Brenda.Edwards@ee.doe.gov* Include EERE–2008–BT–STD–0006 in the subject line of the message.
- *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Public Meeting for Residential Central Air Conditioners and Heat Pumps, EERE–2008–BT–STD–0006, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone (202) 586–2945. Please submit one signed paper original.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024. Telephone (202) 586–2945. Please submit one signed paper original.

Instructions: All submissions must include the agency name and docket number.

Docket: For access to the docket to read background documents or a copy of the transcript of the public meeting or comments received, go to the U.S. Department of Energy, Sixth Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024, (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at (202) 586–2945 for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information to Mr. Wes Anderson, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–7335. E-mail: *Wes.Anderson@ee.doe.gov.* In the Office of General Counsel, contact Ms. Elizabeth Kohl, U.S. Department of Energy, Office of General Counsel, GC–71, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7796. E-mail: *Elizabeth.Kohl@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

A. Statutory Authority

Part A of Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 *et seq.*) (EPCA) established the Energy Conservation Program for Consumer Products Other than Automobiles. Amendments expanded Title III of

EPCA to include certain commercial and industrial equipment, including residential central air conditioners and heat pumps. (42 U.S.C. 6292(3)) In particular, the Energy Policy Act of 1992, Pub. L. 102–486 amended EPCA to direct DOE to prescribe energy conservation standards for those residential central air conditioners and heat pumps for which the Secretary determines that standards "would be technologically feasible and economically justified, and would result in significant energy savings." (42 U.S.C. 6295(o)(2)(A), (o)(3))

DOE must design each standard for these products to: (1) Achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified, and (2) result in significant conservation of energy. (42 U.S.C. 6295(o)(2)(A)) To determine whether a proposed standard is economically justified, DOE must, after receiving comments on the proposed standard, determine whether the benefits of the standard exceed its burdens to the greatest extent practicable, considering the following seven factors:

1. The economic impact of the standard on manufacturers and consumers of products subject to the standard;

2. The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products which are likely to result from the imposition of the standard;

3. The total projected amount of energy savings likely to result directly from the imposition of the standard;

4. Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

5. The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

6. The need for national energy conservation; and

7. Other factors the Secretary [of Energy] considers relevant.

(42 U.S.C. 6295(o)(2)(B)(i))

Prior to proposing a standard, DOE typically seeks public input on the analytical framework, models, and tools that will be used to evaluate standards; the results of preliminary analyses; and potential energy conservation standard levels derived from these analyses. DOE is publishing this document to announce the availability of the preliminary TSD, which details the preliminary analyses, discusses the comments on the framework document, and summarizes the preliminary results. In addition, DOE is announcing a public meeting to solicit feedback from interested parties on its analytical framework, models, and preliminary results.

B. History of Standards Rulemaking for Residential Central Air Conditioners and Heat Pumps

1. Background

Part A of Title III of the Energy Policy and Conservation Act of 1975 (EPCA), Pub. L. 94163, as amended, created the "Energy Conservation Program for Consumer Products Other Than Automobiles." (42 U.S.C. 6291–6309) This program includes residential central air conditioners and central air-conditioning heat pumps (hereafter referred to as central air conditioners and heat pumps). (42 U.S.C. 6292(3))

The National Appliance Energy Conservation Act of 1987 (NAECA), Pub. L. 100–12, established energy conservation standards for central air conditioners and heat pumps as well as requirements for determining whether these standards should be amended. Specifically, NAECA established energy conservation standards for central air conditioners and heat pumps in the form of minimum limits on the seasonal energy efficiency ratio (SEER) for air conditioners and for heat pumps operating in the cooling mode, and on the heating seasonal performance factor (HSPF) for heat pumps operating in the heating mode. (42 U.S.C. 6291(22)(C), 6295(d)) NAECA established the following standards for central air conditioners and heat pumps: 10.0 SEER/6.8 HSPF for split systems, and 9.7 SEER/6.6 HSPF for single-package systems. "Split systems" consist of outdoor and indoor units which are "split" from each other and connected via refrigerant tubing. The outdoor unit resides outdoors and consists of a compressor, heat exchanger coil, fan, and fan motor. The indoor unit, consisting of a heat exchanger coil, resides either within a furnace or blower-coil unit, and conditioned air is conveyed to the home via ducts. In "single-package systems," all the components that comprise a split system, including the air circulation products, are placed in a single cabinet. The single-package system resides outdoors, and conditioned air is conveyed to the home via ducts. These standards became effective January 1, 1992 for split systems; standards for single-package systems came into effect one year later. (42 U.S.C. 6295(d)(1), (d)(2)). NAECA also required that DOE conduct two cycles of rulemakings to determine if more stringent standards are economically justified and technologically feasible. (42 U.S.C. 6295(d)(3))

Pursuant to 42 U.S.C. 6295(d)(3)(A), DOE published a final rule in the **Federal Register** on January 22, 2001 (2001 final rule), amending the energy conservation standards for central air conditioners and heat pumps. 66 FR 7170. The amended standards would have increased the minimum SEER to 13 for all central air conditioners and heat pumps, with a corresponding HSPF of 7.7. *Id.*

Shortly after the publication of the 2001 final rule, DOE postponed the effective date of the rule to reconsider the amended standards for central air conditioners and heat pumps. DOE then promulgated a 12 SEER and 7.4 HSPF standard in a final rule published May 23, 2002, 67 FR 36368. The U.S. Court of Appeals for the Second Circuit, however, ruled that DOE had promulgated the 2002 final rule improperly. *Natural Resources Defense Council* v. *Abraham,* 355 F.3d 179 (2d Cir. 2004). As a result, DOE published a final rule on August 17, 2004, which established a 13 SEER standard for all central air conditioners and heat pumps, excluding through-the-wall and space-constrained systems. 69 FR 50997. This final rule constituted the first cycle of revised standards for central air conditioners and heat pumps.

In separate court proceedings (*New York* versus *Bodman,* No. 05 Civ. 7807 (S.D.N.Y. filed Sept. 7, 2005) and *Natural Resources Defense Council* versus *Bodman,* No. 05 Civ. 7808 (S.D.N.Y. filed Sept. 7, 2005) the resulting consent decree (filed November 6, 2006) adopted the schedule for central air conditioners and heat pumps that DOE published in its January 2006 report to Congress, requiring DOE to publish a final rule by June 30, 2011, with a compliance date of June 30, 2016. This final rule would constitute the second cycle of revised standards for central air conditioners and heat pumps.

More recently, EPCA was amended by the Energy Independence and Security Act of 2007 (EISA 2007), Pub. L. 110140. In Section 306 of EISA 2007, Congress directed DOE to: (1) Amend test procedures for all covered products (including central air conditioners and heat pumps) to include standby-mode and off-mode energy consumption unless current test procedures already fully account for an incorporate standby mode and off mode energy consumption

or an integrated test procedure is technically infeasible, in which case DOE must prescribe a separate standby mode and off mode energy use test procedure, if technically feasible (42 U.S.C. 6295(gg)(2); and (2) incorporate standby mode and off mode energy use into any new or amended standard published after July 1, 2010. (42 U.S.C. 6295(gg)(3)) Because this energy conservation standards rulemaking for central air conditioners and heat pumps will be completed in 2011, the requirement to incorporate standby-mode and off-mode energy use into the energy conservation standards analysis applies.

2. Current Rulemaking Process

DOE prepared and published a notice announcing the availability of the framework document, "Energy Conservation Standards Rulemaking Framework Document for Residential Central Air Conditioners and Heat Pumps," and a public meeting to discuss the proposed analytical framework for the rulemaking. 73 FR 32243 (June 6, 2008). DOE also posted the framework document on its Web site describing the procedural and analytical approaches DOE anticipated using to evaluate the establishment of energy conservation standards for central air conditioners and heat pumps. This document is available at: *http://www1.eere.energy.gov/buildings/appliance_standards/residential/pdfs/cac_framework.pdf.* DOE held a public meeting on June 12, 2008, to describe the various rulemaking analyses DOE would conduct, such as the engineering analysis, the life-cycle cost (LCC) and payback period (PBP) analyses, and the national impact analysis (NIA); the methods for conducting them; and the relationship among the various analyses. Manufacturers, trade associations, and environmental advocates attended the meeting. The participants discussed nine major issues: the scope of covered product classes, definitions, test procedures, DOE's engineering analysis, life-cycle costs, efficiency levels, regional standards, efficiency metrics, and energy savings.

DOE developed two spreadsheets for analyzing the economic impacts of standard levels—one that calculates LCC and PBP, and one that calculates national impacts.[1] DOE prepared an LCC and PBP spreadsheet that calculates results for each of the representative units analyzed.

This spreadsheet includes product efficiency data that allows users to determine LCC savings and PBPs based on average values, and can also be combined with Crystal Ball (a commercially available software program) to generate a Monte Carlo simulation, incorporating uncertainty and variability considerations. The second economic spreadsheet calculates the impacts of candidate standard levels on shipments and the national energy savings (NES) and net present value (NPV) at various standard levels. There is one national impact analysis spreadsheet for all central air conditioners and heat pumps. DOE has posted both economic spreadsheets on its Web site for review and comment by interested parties.

Comments received since publication of the framework document have helped DOE identify and resolve issues involved in the preliminary analyses. Chapter 2 of the preliminary TSD, available at the Web link provided in the **SUMMARY** section of this notice, summarizes and addresses the comments received in response to the framework document.

C. Specific Issues for Which DOE Is Seeking Comment

DOE is specifically presenting two issues regarding the energy conservation standards rulemaking for residential central air conditioners and heat pumps in today's notice. There are additional issues presented throughout the preliminary TSD for which DOE is also seeking comment. DOE presents the analysis methodologies throughout the preliminary TSD and summarizes the issues for which DOE seeks comment at the end of the executive summary of the preliminary TSD.

1. Consensus Agreement

On January 26, 2010, the Air-Conditioning, Heating and Refrigeration Institute (AHRI), American Council for an Energy Efficient Economy (ACEEE), Alliance to Save Energy (ASE), Appliance Standards Awareness Project (ASAP), Natural Resources Defense Council (NRDC), and Northeast Energy Efficiency Partnerships (NEEP) submitted a joint comment (hereafter referred to as Joint Comment 5) to DOE recommending minimum energy conservation standards for residential central air conditioners, heat pumps, and furnaces. (AHRI, ACEEE, ASE, ASAP, NRDC, and NEEP, Joint Comment 5, No. #47 at pp. 1–33) The Joint Comment 5 stated the original consensus agreement was completed on October 13, 2009 and had 15 signatories, including AHRI, ACEEE, ASE, NRDC, ASAP, NEEP, Northwest Power and Conservation Council (NPCC), California Energy Commission (CEC), Bard Manufacturing Company Inc., Carrier Residential and Light Commercial Systems, Goodman Global Inc., Lennox Residential, Mitsubishi Electric & Electronics USA, National Comfort Products, and Trane Residential.

The Joint Comment 5 recommends standards that divide the nation into three regions for residential central air conditioners and two regions for residential furnaces based on the population-weighted number of heating degree days (HDD) of each State. States with 5000 HDD or more are considered as part of the northern region, while States with less than 5000 HDD are considered part of the southern region. For residential central air conditioners, the Joint Comment 5 establishes a third region—the "southwest" region—which is comprised of California, Arizona, New Mexico, and Nevada. For furnaces, the southwest region States are included in the southern region. The compliance date specified in the agreement is May 1, 2013 for non-weatherized furnaces and January 1, 2015 for weatherized furnaces.

In addition to the preliminary TSD, DOE is making available on its Web site the Joint comment 5, which can be found: *http://www1.eere.energy.gov/buildings/appliance_standards/residential/furnaces_boilers.html.*

DOE specifically invites comment from interested parties on the Joint Comment 5. In particular, DOE is interested in comments relating to the proposed SEER, HSPF, and EER requirements, the proposed regional divisions, and the proposed compliance dates for residential central air conditioners and heat pumps.

2. Combined Rulemaking Approach

DOE is currently conducting or planning separate standards rulemakings for three interrelated products: (1) Central air conditioners and heat pumps; (2) gas furnaces; and (3) furnace fans. These rulemakings are subject to the following deadlines: (1) June 30, 2011 for residential central air conditioners and heat pumps, required by consent decree; (2) May 1, 2011 for furnaces, required as a condition of the remand of a November 2007 final rule amending the minimum energy conservation standards for gas furnaces; and (3) January 1, 2013 for furnace fans, required by amendments to EPCA in EISA 2007. (42 U.S.C. 6295(f)(4)(D))

[1] For the notice of proposed rulemaking, DOE will also develop an economic spreadsheet that will evaluate the financial impacts on central air conditioners and heat pump manufacturers that may result from a standard level.

Rather than analyze each set of products separately, DOE is considering combining the analyses to examine how the interaction between the three products impacts the cost to consumers and the energy savings resulting from potential amended standards. If DOE conducts such an analysis and the results indicate that a combined approach yields additional savings beyond what can be achieved by considering each product separately, DOE may decide to pursue a combined standards rulemaking that addresses all three products, or two of the three products (*i.e.,* central air conditioners and heat pumps and furnaces), simultaneously. If such a combined rulemaking is pursued, DOE would be required to publish the combined final rule by May 1, 2011 in order to comply with the conditions of the remand agreement for residential furnaces. DOE is seeking comment from interested parties relating to a combined rulemaking regarding energy conservation standards for residential central air conditioners and heat pumps, residential furnaces, and furnace fans.

D. Summary of the Analyses Performed by DOE

For central air conditioners and heat pumps currently under consideration, DOE conducted in-depth technical analyses in the following areas: (1) Engineering, (2) energy-use characterization, (3) markups to determine product price, (4) life-cycle cost and payback period, and (5) national impacts. These analyses resulted in a preliminary TSD that presents the methodology and results of each of these analyses. The preliminary TSD is available at the Web address given in the **SUMMARY** section of this notice. The analyses are described in more detail below.

DOE also conducted several other analyses that either support the five major analyses or are preliminary analyses that will be expanded in the notice of proposed rulemaking (NOPR).[2] These analyses include the market and technology assessment, the screening analysis, which contributes to the engineering analysis, and the shipments analysis, which contributes to the NIA. In addition to these analyses, DOE has begun some preliminary work on the manufacturer impact analysis and identified the methods to be used for the LCC subgroup analysis, the environmental assessment, the employment analysis, the regulatory impact analysis, and the utility impact analysis. DOE will expand on these analyses in the NOPR.

Engineering Analysis

The engineering analysis establishes the relationship between the manufacturer selling price and efficiency of a product DOE is evaluating for energy conservation standards. This relationship serves as the basis for cost-benefit calculations for individual consumers, manufacturers, and the nation. The engineering analysis identifies a representative baseline product, which is the starting point for analyzing technologies that provide energy efficiency improvements. Baseline product refers to a model or models having features and technologies typically found in the minimum efficiency products currently offered for sale. The baseline model in each product class represents the characteristics of certain central air conditioners and heat pumps. After identifying the baseline models, DOE estimated manufacturer selling prices by using a consistent methodology and pricing scheme including material and labor costs, and manufacturer's markups. In this way, DOE developed "manufacturer selling prices" for the baseline and more efficient motor designs. Later, in its Markups to Determine Installed Price analysis, DOE converts these manufacturer selling prices into installed prices. In the preliminary TSD, section 2.4 of chapter 2 and chapter 5 each provide detail on the engineering analysis and the derivation of the manufacturer selling prices.

Markups To Determine Installed Price

DOE derives the installed prices for products based on manufacturer markups, retailer markups, distributor markups, contractor markups, builder markups, and sales taxes. In deriving these markups, DOE has determined the distribution channels for product sales, the markup associated with each party in the distribution channels, and the existence and magnitude of differences between markups for baseline products (baseline markups) and for more-efficient products (incremental markups). DOE calculates both overall baseline and overall incremental markups based on the product markups at each step in the distribution channel. The overall incremental markup relates the change in the manufacturer sales price of higher efficiency models (the incremental cost increase) to the change in the retailer or distributor sales price. In the preliminary TSD, section 2.5 of chapter 2 and chapter 6 each provide detail on the estimation of markups.

Energy Use Characterization

The energy use characterization provides estimates of annual energy consumption for central air conditioners and heat pumps, which DOE uses in the LCC and PBP analyses and the NIA. DOE developed energy consumption estimates for all of the product classes analyzed in the engineering analysis, as the basis for its energy use estimates. In the preliminary TSD, section 2.6 of chapter 2 and chapter 7 each provide detail on the energy use characterization.

Life-Cycle Cost and Payback Period Analyses

The LCC and PBP analyses determine the economic impact of potential standards on individual consumers. The LCC is the total consumer expense for a product over the life of the product. The LCC analysis compares the LCCs of products designed to meet possible energy conservation standards with the LCCs of the products likely to be installed in the absence of standards. DOE determines LCCs by considering (1) total installed cost to the purchaser (which consists of manufacturer selling price, sales taxes, distribution chain markups, and installation cost); (2) the operating expenses of the products (energy use and maintenance); (3) product lifetime; and (4) a discount rate that reflects the real consumer cost of capital and puts the LCC in present-value terms. The PBP represents the number of years needed to recover the increase in purchase price (including installation cost) of more efficient products through savings in the operating cost of the product. It is the change in total installed cost due to increased efficiency divided by the change in annual operating cost from increased efficiency. In the preliminary TSD, section 2.7 of chapter 2 and chapter 8 each provide detail on the LCC and PBP analyses.

National Impact Analysis

The NIA estimates the NES and the NPV of total consumer costs and savings expected to result from new standards at specific efficiency levels (referred to as candidate standard levels). DOE calculated NES and NPV for each level for each candidate standard for central air conditioners and heat pumps as the difference between a base-case forecast (without new standards) and the

[2] For past rulemakings under EPCA section 325, DOE was required to issue an advanced notice of proposed rulemaking (ANOPR) following publication of the framework document. EISA 2007 eliminated this requirement. Given EISA 2007's revisions to EPCA, DOE is now using an alternative process to provide the same information and ability for public comment as the ANOPR, but without publication of analyses in the **Federal Register**.

standards case forecast (with standards). DOE determined national annual energy consumption by multiplying the number of units in use (by vintage) by the average unit energy consumption (also by vintage). Cumulative energy savings are the sum of the annual NES determined over a specified time period. The national NPV is the sum over time of the discounted net savings each year, which consists of the difference between total operating cost savings and increases in total installed costs. Critical inputs to this analysis include shipments projections, retirement rates (based on estimated product lifetimes), and estimates of changes in shipments and retirement rates in response to changes in product costs due to standards. In the preliminary TSD, section 2.8 of chapter 2 and chapter 10 each provide detail on the NIA.

DOE consulted with interested parties as part of its process for conducting all of the analyses and invites further input from the public on these topics. The preliminary analytical results are subject to revision following review and input from the public. A complete and revised TSD will be made available upon issuance of a NOPR. The final rule will contain the final analysis results and be accompanied by a final rule TSD.

DOE encourages those who wish to participate in the public meeting to obtain the preliminary TSD from DOE's Web site and to be prepared to discuss its contents. A copy of the preliminary TSD is available at the Web address given in the **SUMMARY** section of this notice. However, public meeting participants need not limit their comments to the topics identified in the preliminary TSD. DOE is also interested in receiving views concerning other relevant issues that participants believe would affect energy conservation standards for these products or that DOE should address in the NOPR.

Furthermore, DOE welcomes all interested parties, regardless of whether they participate in the public meeting, to submit in writing by May 10, 2010, comments and information on matters addressed in the preliminary TSD and on other matters relevant to consideration of standards for central air conditioners and heat pumps.

The public meeting will be conducted in an informal, conference style. A court reporter will be present to record the minutes of the meeting. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by United States antitrust laws.

After the public meeting and the expiration of the period for submitting written statements, DOE will consider all comments and additional information that is obtained from interested parties or through further analyses, and it will prepare a NOPR. The NOPR will include proposed energy conservation standards for the products covered by the rulemaking, and members of the public will be given an opportunity to submit written and oral comments on the proposed standards.

Issued in Washington, DC, on February 22, 2010.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2010–6595 Filed 3–24–10; 8:45 am]

BILLING CODE 6450–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 723 and 742

RIN 3133–AD68

Fixed Assets, Member Business Loans, and Regulatory Flexibility Program

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule with request for comments.

SUMMARY: NCUA proposes to revise certain provisions of its Regulatory Flexibility Program (RegFlex) to enhance safety and soundness for credit unions. Those provisions pertain to fixed assets, member business loans (MBL), stress testing of investments, and discretionary control of investments. Some of these revisions will require conforming amendments to NCUA's fixed assets and MBL rules.

DATES: Comments must be received on or before May 24, 2010.

ADDRESSES: You may submit comments by any of the following methods (*Please send comments by one method only):*

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web Site: http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html.* Follow the instructions for submitting comments.
- *E-mail:* Address to *regcomments@ncua.gov.* Include "[Your name] Comments on Proposed Rule 742, Regulatory Flexibility Program" in the e-mail subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for e-mail.
- *Mail:* Address to Mary Rupp, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

Public Inspection: All public comments are available on the agency's website at *http://www.ncua.gov/RegulationsOpinionsLaws/comments* as submitted, except as may not be possible for technical reasons. Public comments will not be edited to remove any identifying or contact information. Paper copies of comments may be inspected in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6546 or send an e-mail to *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Frank Kressman, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background—Regulatory Flexibility Program

The RegFlex Program exempts from certain regulatory restrictions and grants additional powers to those federal credit unions (FCUs) that have demonstrated sustained superior performance as measured by CAMEL ratings and net worth classifications. 12 CFR 742.1. An FCU may qualify for RegFlex treatment automatically or by application to the appropriate regional director. 12 CFR 742.2. Specifically, an FCU automatically qualifies when it has received a composite CAMEL rating of "1" or "2" for the two preceding examinations and has maintained a net worth classification of "well capitalized" under Part 702 of NCUA's rules for six consecutive preceding quarters or, if subject to a risk-based net worth (RBNW) requirement under Part 702, has remained "well capitalized" for six consecutive preceding quarters after applying the applicable RBNW requirement. An FCU that does not automatically qualify may apply for a RegFlex designation with the appropriate regional director. 12 CFR 742.2(a) and (b). An FCU's RegFlex authority can be lost or revoked. 12 CFR 742.3.

The NCUA Board established RegFlex in 2002. 66 FR 58656 (November 23, 2001). Since then, NCUA has amended RegFlex a number of times to increase available relief for FCUs from a variety of regulatory restrictions or lessen the criteria required for obtaining RegFlex status. 71 FR 4039 (January 25, 2006); 72 FR 30247 (May 31, 2007); 74 FR 13083 (March 26, 2009).

B. Discussion

1. Overview

The current RegFlex rule provides RegFlex credit unions with regulatory relief in the following ten areas: (1) Charitable contributions; (2) nonmember deposits; (3) fixed assets; (4) MBLs; (5) discretionary control of investments; (6) stress testing of investments; (7) Zero-coupon securities; (8) borrowing repurchase transactions; (9) commercial mortgage related securities; and (10) purchase of obligations from a federally insured credit union. NCUA proposes amendments to the fixed assets, MBL, stress testing of investments, and discretionary control of investments provisions of the RegFlex rule. NCUA requests comment on those amendments.

2. Fixed Assets

The Federal Credit Union Act authorizes FCUs to purchase, hold, and dispose of property necessary or incidental to its operations. 12 U.S.C. 1757(4). Generally, the fixed asset rule provides limits on fixed asset investments, establishes occupancy and other requirements for acquired and abandoned premises, and prohibits certain transactions. 12 CFR 701.36. Fixed assets are defined in 701.36(e) as premises, furniture, fixtures, and equipment and includes any office, branch office, suboffice, service center, parking lot, facility, real estate where a credit union transacts or will transact business, office furnishings, office machines, computer hardware and software, automated terminals, and heating and cooling equipment. Section 701.36 prohibits an FCU with $1 million or more in assets from investing in fixed assets, the aggregate of which exceeds five percent of the FCU's shares and retained earnings, although upon an FCU's application, a regional director may set a higher limit. 12 CFR 701.36(a)(1) and (2).

The RegFlex rule exempts RegFlex credit unions from the referenced five percent limit. 12 CFR 701.36(a)(1). NCUA believes that investing in higher levels of non-earning assets can materially affect a credit union's earnings ability and, therefore, its viability. Call report data collected by NCUA shows a higher percentage of earnings problems among credit unions with more than five percent of shares and retained earnings invested in fixed assets; the percentage of earnings problems increases as the level of fixed assets increases.

The following examples illustrate the kinds of fixed asset related financial problems some credit unions are experiencing and are a source of concern for NCUA. They demonstrate how credit unions are experiencing earnings and net worth problems as a result of excessive investment in fixed assets.

Example 1. Between 2005 and 2006, an FCU substantially increased its investment in fixed assets to 14.77% of total assets by relocating their main office, opening a new branch, and converting the old main office into a branch. This caused its operating expenses to increase to 99.85% of gross income, which left insufficient earnings to cover loan losses, pay dividends, and maintain net worth. The FCU expanded its operations without conducting a sufficient analysis of the impact of the expansion and developing a sound financial plan. The FCU has performed poorly since 2006 and its net worth ratio has dropped from approximately 10.76% in 2005 to 6.10% in 2010. The credit union is currently supervised by NCUA's Division of Special Actions.

Example 2. In December 2006, a credit union was interested in expanding and, at the time, its fixed assets were 1.46% of total assets. It built a new main office in 2007 in an effort to promote growth. The credit union projected it could grow into its new main office but due to the economic down-turn, cost overruns in the building construction, and other poor management decisions, it did not realize its projections. Since 2007, net income has been negative. By late 2008, fixed assets had risen to 17.50% of total assets, largely due to the cost of the building. The credit union is seeking a merger partner but has been unsuccessful to date, mainly due to the cost and devaluation of the new building.

Example 3. In 2004, a credit union decided to build a branch office to help promote growth. At the time, its net worth was 15.19% and fixed assets were 2.36% of total assets. When construction was completed in 2006, fixed assets had risen to 13.76% of total assets. Since then, income has been negative and net worth has declined to 9.15%. The credit union has closed the branch and put it up for sale but has not received any offers.

Example 4. An FCU began an aggressive fixed asset expansion project. The project caused its fixed assets to mushroom to approximately 16% of total assets. The FCU is unable to support this level of capital expenditures and has created a safety and soundness problem. NCUA issued a temporary cease and desist order to require the FCU to discontinue the project. The FCU is now cooperating with NCUA to address this problem. The above examples are a sampling of a larger and common problem.

Accordingly, for the reasons discussed above, NCUA does not believe it is prudent to continue to exempt RegFlex credit unions from the five percent limit on fixed assets and proposes to rescind that exemption.

3. MBLs

The MBL rule requires a credit union making a business loan to obtain the personal liability and guarantee of the borrower's principals as part of the rule's collateral and security requirements. 12 CFR 723.7(b). Under the current rules, RegFlex credit unions are exempt from that requirement but may choose to require the principals' guarantee as part of their own underwriting standards and best practices. *Id.*

NCUA proposes to rescind this exemption for RegFlex credit unions. NCUA believes obtaining the principals' personal guarantee is a prudent underwriting practice that greatly enhances the likelihood of loan repayment and should be required of all credit unions. A credit union that fails to do so subjects itself to increased risk, particularly in these economic times when MBL delinquencies and MBL charge-offs have increased. The below table illustrates the magnitude of MBL-related losses in credit unions.

SEPTEMBER 30, 2009 CONSOLIDATED FINANCIAL PERFORMANCE REPORT

	2005 %	2006 %	2007 %	2008 %	9/2009 %
Delinquent MBLs	0.42	0.53	1.87	2.26	3.33
Charged Off MBLs	0.07	0.11	0.15	0.46	0.47

The below table illustrates an example of one credit union with a high concentration of MBLs with increasing net charge-offs.

DECEMBER 31, 2009 FINANCIAL PERFORMANCE REPORT

	2005 %	2006 %	2007 %	2008 %	9/2009 %
Net Worth Ratio	9.81	10.76	9.61	7.71	7.18
Percent of MBLs Compared to Assets	59.51	52.07	55.19	50.77	55.66
Delinquent MBLs	0.15	0.25	1.05	3.62	7.21
Charged Off MBLs	0.15	1.18	1.05	0.81	1.70

This trend in losses and delinquencies is becoming increasingly common, even among credit unions whose MBLs portfolios represent a smaller portion of their assets. Accordingly, for the reasons discussed above, the Board believes it is in the interest of safety and soundness to rescind the exemption. Credit unions will continue to have the option of seeking a waiver of the guarantee requirement under 723.10(e) on a case-by-case basis.

4. Stress Testing of Investments

NCUA's investment rule requires an FCU to monitor the securities it holds. 12 CFR 703.12. Specifically, at least monthly, an FCU must prepare a written report setting out the fair value and dollar change since the prior month-end for each security held with summary information for its entire portfolio. 12 CFR 703.12(a). Similarly, at least quarterly, an FCU must prepare a written report setting out the sum of the fair values of all fixed and variable rate securities whose features include: (1) Embedded options; (2) remaining maturities greater than three years; or (3) coupon formulas that are related to more than one index or are inversely related to, or multiples of, an index. 12 CFR 703.12(b). If the sum in the quarterly report is greater than the FCU's net worth, then the report must estimate the potential impact, in percentage and dollar terms, of an immediate and sustained parallel shift in market interest rates of plus and minus 300 basis points on: (1) The fair value of each security in the FCU's portfolio; (2) the fair value of the FCU's portfolio as a whole; and (3) the FCU's net worth. 12 CFR 703.12(c). This calculation is known as "stress testing" the securities. Under the current rules, RegFlex credit unions are exempt from the requirement to stress test their securities.

Because of low investment yields due to the current economic environment, many credit unions are incurring additional risk by investing in long-term instruments to increase yield and improve earnings. NCUA believes many credit unions are purchasing investment products they do not fully understand and are incurring significant interest rate and liquidity risk.

The below chart illustrates the degree to which credit unions are investing in products with longer maturities further out on the yield curve. Although this may help achieve greater yield in the short term, an increase in market rates could result in a significant decrease in product value and cause liquidity problems. Credit unions need to stress test their investments so they have a clearer understanding of their risk profile and can better manage risk.

DECEMBER 31, 2009 CONSOLIDATED FINANCIAL PERFORMANCE REPORT

	12/2008	3/2009	6/2009	9/2009	12/2009
Total Investment >3 Years Maturities	$38.2B	$39.7B	$43.4B	$45.6B	$50.7B

The trends in the net long-term asset ratio reveal that credit unions are extending maturities in all types of assets, including loans and investments. NCUA has stressed the need for improved asset-liability management, and this includes stress testing investments.

For the reasons discussed above, the Board believes all FCUs must stress test their securities as a matter of safety and soundness and responsible business practices. Accordingly, the Board proposes to rescind the RegFlex exemption in this context.

5. Discretionary Control of Investments

NCUA's investment rule requires an FCU to retain discretionary control over its purchase and sale of investments although, under the rule, an FCU will not be deemed to have delegated discretionary control to an investment adviser if the FCU reviews all recommendations from the investment adviser and authorizes a recommended purchase or sale transaction before its execution. 12 CFR 703.5(a). An exception to this general rule is that an FCU may delegate discretionary control over the purchase and sale of its investments to a person outside the FCU if the person is an investment advisor registered with the Securities and Exchange Commission and if the amount delegated is limited to up to 100 percent of the FCU's net worth at the time of delegation. 12 CFR 703.5(b). If an FCU exercises this limited authority, it must adjust the amount of funds held under discretionary control to comply with the 100 percent of net worth cap at least annually. *Id.*

Under the current rule, a RegFlex credit union is exempt from the discretionary control requirements in 703.5 that pertain to the 100 percent of net worth limitation. In light of the current investment climate and reports of fraudulent practices in the investment banking industry, the Board is becoming increasingly concerned about the safety and soundness of credit unions and their investments. Accordingly, the Board proposes to rescind the RegFlex exemption pertaining to discretionary control of investments.

C. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed rule may have on a substantial number of small entities (primarily those under ten million dollars in assets). This rule enhances safety and soundness without additional

regulatory burden. Accordingly, this proposed rule will not have a significant economic impact on a substantial number of small credit unions, and therefore, no regulatory flexibility analysis is required.

Paperwork Reduction Act

NCUA has determined that this rule will not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This proposed rule 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. NCUA has determined that this proposed rule does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

NCUA has determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

Agency Regulatory Goal

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether this proposed rule is understandable and minimally intrusive if implemented as proposed.

List of Subjects

12 CFR Part 701

Credit unions.

12 CFR Part 723

Credit, Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 742

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on March 18, 2010.

Mary Rupp,

Secretary of the Board.

For the reasons discussed above, NCUA proposes to amend 12 CFR parts 701, 723, and 742 as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.,* 42 U.S.C. 1861 and 42 U.S.C. 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Amend § 701.36 by revising paragraphs (d) introductory text and (d)(1) to read as follows:

§ 701.36 FCU ownership of fixed assets.

* * * * *

(d) *Regulatory Flexibility Program.* Federal credit unions that meet Regulatory Flexibility Program standards, as determined pursuant to Part 742 of this chapter, are exempt from the three-year partial occupancy requirement described in paragraph (b) of this section when acquiring unimproved land for future expansion pursuant to the terms of section 742.4(a)(3) of this chapter. For a Federal credit union eligible for the Regulatory Flexibility Program that subsequently loses eligibility:

(1) Section 742.3 of this chapter provides that NCUA may require the credit union to divest any existing fixed assets for substantive safety and soundness reasons; and

* * * * *

PART 723—MEMBER BUSINESS LOANS

3. The authority citation for part 723 continues to read as follows:

Authority: 12 U.S.C. 1756, 1757, 1757A, 1766, 1785, 1789.

§ 723.7 [Amended]

4. Amend § 723.7 by removing the last sentence of paragraph (b).

PART 742—REGULATORY FLEXIBILITY PROGRAM

5. The authority citation for part 742 continues to read as follows:

Authority: 12 U.S.C. 1756, 1766.

§ 742.4 [Amended]

6. Amend § 742.4 by removing the first sentence of paragraph (a)(3) and by removing paragraphs (a)(4), (a)(5), and (a)(6) and redesignating paragraphs (a)(7), (a)(8), and (a)(9) as paragraph (a)(4), (a)(5), and (a)(6).

[FR Doc. 2010–6391 Filed 3–24–10; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0217; Directorate Identifier 2009–NE–23–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney (PW) PW4000 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for PW PW4052, PW4056, PW4060, PW4062, PW4062A, PW4074, PW4077, PW4077D, PW4084D, PW4090, PW4090–3, PW4152, PW4156, PW4156A, PW4158, PW4164, PW4168, PW4168A, PW4460, and PW4462 turbofan engines. This proposed AD would require initial and repetitive fluorescent penetrant inspections (FPI) for cracks in the blade locking and loading slots of the high-pressure compressor (HPC) drum rotor disk assembly. This proposed AD results from reports of cracked locking and loading slots in the HPC drum rotor disk assembly. We are proposing this AD to detect cracks in the locking and loading slots in the HPC drum rotor disk assemblies, which could result in rupture of the HPC drum rotor disk assembly and damage to the airplane.

DATES: We must receive any comments on this proposed AD by May 24, 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 Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–7700; fax (860) 565–1605, for information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Rose Len, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *rose.len@faa.gov;* telephone (781) 238–7772; fax (781) 238–7199.

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–2010–0217; Directorate Identifier 2009–NE–23–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 294 HPC drum rotor disk assemblies that were removed because of cracks in the rear drum locking and loading slots. We determined that the cracks resulted from thermal mechanical fatigue. Cracks in rotating life-limited parts (LLPs), such as the HPC rear drum of the HPC drum rotor disk assembly, could result in rupture of that part.

Relevant Service Information

We have reviewed and approved the technical contents of PW Service Bulletins (SBs) PW4ENG 72–796, dated June 11, 2009, PW4G–100–72–186, Revision 1, dated September 2, 2004, and PW4G–112–72–264, Revision 1, dated September 2, 2004, that describe procedures for performing a local FPI of the HPC drum rotor disk assembly blade locking and loading slots for cracks.

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 performing a repetitive local FPI for cracks in the HPC drum rotor disk assembly blade locking and loading slots. The proposed AD would require you to use the service information described previously to perform these actions.

Interim Action

These actions are interim actions and we may take further rulemaking actions in the future.

Costs of Compliance

We estimate that this proposed AD would affect 1,038 engines installed on airplanes of U.S. registry. We also estimate that it would take about 1 work-hour per engine to perform the proposed actions, and that the average labor rate is $85 per work-hour. No parts are required. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $88,230.

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, 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 adding the following new airworthiness directive:

Pratt & Whitney: Docket No. FAA–2010–0217; Directorate Identifier 2009–NE–23–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this

airworthiness directive (AD) action by May 24, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Pratt & Whitney (PW) PW4052, PW4056, PW4060, PW4062, PW4062A, PW4074, PW4077, PW4077D, PW4084D, PW4090, PW4090–3, PW4152, PW4156, PW4156A, PW4158, PW4164, PW4168, PW4168A, PW4460, and PW4462 turbofan engines. These engines are installed on, but not limited to, Boeing 747–400, 767–200, 767–300, 777–200, and 777–300 airplanes; McDonnell Douglas MD–11 airplanes; and Airbus A300–600, A310–300, and A330–200 airplanes.

Unsafe Condition

(d) This AD results from reports of cracked locking and loading slots in the high-pressure compressor (HPC) drum rotor disk assembly. We are issuing this AD to detect cracks in the locking and loading slots in the HPC drum rotor disk assemblies, which could result in rupture of the HPC drum rotor disk assembly 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.

Local Fluorescent Penetrant Inspection

(f) Perform a local fluorescent penetrant inspection for cracks in the HPC drum rotor disk assembly blade locking and loading slots of the specific stages of the HPC drum rotor disk assemblies from which any of the blades are removed as specified in Table 1 of this AD.

TABLE 1—COMPLIANCE TIMES AND SERVICE BULLETINS BY ENGINE MODEL

For engine model	Inspect whenever—	Use—
(1) PW4074, PW4077, PW4077D, PW4084D, PW4090, and PW4090–3.	Any of the 13th or 14th stage blades are removed during a shop visit.	Paragraphs 1.A. through 1.B. of the Accomplishment Instructions of PW4G–112–72–264, Revision 1, dated September 2, 2004.
(2) PW4164, PW4168, and PW4168A	Any of the 13th, 14th, or 15th stage blades are removed during a shop visit.	Paragraphs 1.A. through 1.C of the Accomplishment Instructions of PW4G–100–72–186, Revision 1, dated September 2, 2004.
(3) PW4052, PW4056, PW4060, PW4062, PW4062A, PW4152, PW4156, PW4156A, PW4158, PW4460, and PW4462.	Any of the 13th, 14th, or 15th stage blades are removed during a shop visit.	Paragraphs 1.A. through 1.C. of the Accomplishment Instructions of PW4ENG 72–796, dated June 11, 2009.

(g) Remove from service any HPC drum rotor disk assembly found with a crack in the blade loading and locking slots of the HPC drum rotor disk assembly.

Alternative Methods of Compliance

(h) The Manager, Engine 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 Rose Len, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *rose.len@faa.gov;* telephone (781) 238–7772; fax (781) 238–7199, for more information about this AD.

(j) Pratt & Whitney Service Bulletins PW4ENG 72–796, dated June 11, 2009, PW4G–100–72–186, Revision 1, dated September 2, 2004, and PW4G–112–72–264, Revision 1, dated September 2, 2004, pertain to the subject of this AD. Contact Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–7700; fax (860) 565–1605, for a copy of this service information.

Issued in Burlington, Massachusetts, on March 16, 2010.

Francis A. Favara,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2010–6581 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–1095; Directorate Identifier 2008–NE–34–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney (PW) Model PW2037, PW2037(M), and PW2040 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for PW Model PW2037, PW2037(M), and PW2040 turbofan engines. This proposed AD would require removing erosion damage on fan blades with cutback leading edges and restoring the leading edge contour. This proposed AD results from reports from PW that fan blade leading edge erosion can result in a fan thrust deterioration mode (FTDM) condition, which reduces the engine's capability of producing full rated take-off thrust. We are proposing this AD to prevent loss of engine thrust from an FTDM condition, which could result in an inability to maintain safe flight.

DATES: We must receive any comments on this proposed AD by May 24, 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.

You can get the service information identified in this proposed AD from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–8770; fax (860) 565–4503.

FOR FURTHER INFORMATION CONTACT: Mark Riley, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *mark.riley@faa.gov;* telephone (781) 238–7758; fax (781) 238–7199.

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–2008–1095; Directorate Identifier 2008–NE–34–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 from PW of leading edge erosion on PW2000 fan blades (LPC STG 1 Blade) with a cutback leading edge, part numbers (P/Ns) 1B6531, 1B6231–001, and 1A9031–001 (LPC STG1 Blade Set P/Ns 1B6521, 1B6221–001, and 1A9721–001). Leading edge erosion can result in an FTDM condition. Pratt & Whitney has found evidence of FTDM from engine test cell data, and on installed engines from PW2000 engine health monitoring data. The FTDM condition can result in an inability of the engine to meet full rated take off thrust and maintain safe flight.

Relevant Service Information

We have reviewed and approved the technical contents of PW Alert Service Bulletin (ASB) PW2000 A72–729, Revision 1, dated December 8, 2009, that describes procedures for removing erosion from the leading edge of the fan blades, and restoring the leading edge contour.

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

The PW ASB PW2000 A72–729, Revision 1, dated December 8, 2009, requires initial compliance by December 1, 2008, for PW2040 engines and by March 1, 2009, for PW2037 and PW2037(M) engines. This proposed AD would require initial compliance within 500 cycles-in-service after the effective date of this proposed AD for PW2037, PW2037(M) and PW2040 engines.

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 initial and repetitive maintenance to restore the leading edge contour of PW2000 fan blade P/Ns 1B6531, 1B6231–001, and 1A9031–001 (LPC STG1 blade set P/Ns 1B6521, 1B6221–001, and 1A9721–001.

The proposed AD would require you to use the service information described previously to perform these actions.

Costs of Compliance

We estimate that this proposed AD would affect 480 engines installed on airplanes of U.S. registry. We also estimate that it would take about 12 work-hours per engine to perform the proposed actions, and that the average labor rate is $85 per work-hour. No parts are required. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $489,600 per year.

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, 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 adding the following new airworthiness directive:

Pratt & Whitney: Docket No. FAA–2008–1095; Directorate Identifier 2008–NE–34–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by May 24, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Pratt & Whitney (PW) PW2037, PW2037(M), and PW2040 turbofan engines with six or more fan blade

(LPC STG1 blade), part numbers (P/Ns) 1B6531, 1B6231–001, or 1A9031–001 (LPC STG1 blade set P/Ns 1B6521, 1B6221–001, and 1A9721–001), with a cutback leading edge, installed. These engines are installed on, but not limited to, Boeing 757 airplanes.

Unsafe Condition

(d) This AD results from reports from PW that fan blade leading edge erosion can result in a fan thrust deterioration mode (FTDM) condition, which reduces the engine's capability of producing full rated take-off thrust. We are issuing this AD to prevent loss of engine thrust from an FTDM condition, which could result in an inability to maintain safe flight.

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.

Restoring the Fan Blade Leading Edge Contour

(f) Within 500 cycles-in-service after the effective date of this AD, restore the fan blade leading edge contour using one of the following:

(1) For engines installed on the airplane, use the Accomplishment Instructions, For Engines Installed on Aircraft, paragraphs 1. through 1.T. of PW Alert Service Bulletin (ASB) PW2000 A72–729, Revision 1, dated December 8, 2009.

(2) For engines that are not installed on the airplane, use the Accomplishment Instructions, For Engines Not Installed on Aircraft, paragraphs 1. through 1.S. of PW ASB PW2000 A72–729, Revision 1, dated December 8, 2009.

(g) Thereafter, repeat paragraphs (f)(1) or (f)(2) of this AD, within intervals of 1,000 cycles-since-last repair.

Alternative Methods of Compliance

(h) Pratt & Whitney PW2037, PW2040, PW2240, PW2337 Turbofan Engine Manual, Part No. 1A6231, Chapter/Section 72–31–12, Repair 14, is an approved alternative method of compliance to paragraphs (f)(1) and (f)(2) of this AD.

(i) Boeing 757 Airplane Flight Manual Document D631N002, Appendix 24, (Performance For Operation Of PW2000 Series Engines With Cutback Fan Blades Installed), is an approved alternative method of compliance to paragraphs (f)(1) and (f)(2) and (g) of this AD.

(j) The Manager, Engine 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

(k) Contact Mark Riley, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *mark.riley@faa.gov;* telephone (781) 238–7758, fax (781) 238–7199, for more information about this AD.

(l) Pratt & Whitney ASB PW2000 A72–729, Revision 1, dated December 8, 2009, pertains to the subject of this AD. 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.

Issued in Burlington, Massachusetts, on March 18, 2010.

Francis A. Favara,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2010–6583 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0301; Directorate Identifier 2009–NE–22–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG (RRD) Models Tay 620–15, Tay 650–15, and Tay 651–54 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as: Following a review of operational data of the Tay 651–54 engine, it has been found that the actual stress levels in the Tay 651–54 engine High Pressure Compressor (HPC) stages 1, 3, 6, 7 and 12 discs were higher than those originally assumed and therefore the approved lives needed to be reduced.

We are proposing this AD to prevent HPC stages 1, 3, 6, 7, and 12 discs from exceeding the approved reduced life limits, which could result in an uncontained failure of a disc and damage to the airplane.

DATES: We must receive comments on this proposed AD by April 26, 2010.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* 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 Rolls-Royce Deutschland Ltd & Co KG; Eschenweg 11, D–15827 Blankenfelde-Mahlow, Germany; telephone +49 (0) 33 7086 1768; fax +49 (0) 33 7086 3356 for the service information identified in this proposed AD.

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.

FOR FURTHER INFORMATION CONTACT: Tara Chaidez, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *tara.chaidez@faa.gov;* telephone (781) 238–7773; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0301; Directorate Identifier 2009–NE–22–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2009–0092, dated April 17, 2009 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> Following a review of operational data of the Tay 651–54 engine, it has been found that the actual stress levels in the Tay 651–54 engine High Pressure Compressor (HPC) stages 1, 3, 6, 7 and 12 discs were higher than those originally assumed and therefore the approved lives needed to be reduced.
>
> As Tay 651–54 service run HPC discs may be installed on Tay 620–15 and Tay 650–15 engine models, it is necessary to reduce the maximum approved lives of the affected HPC disc serial numbers installed on Tay 620–15 and Tay 650–15 engines as well.
>
> The approved lives of the affected HPC stages 1, 3, 6, 7 and 12 discs specified in this Airworthiness Directive supersede the approved lives given in the Time Limits Manuals, Chapter 05–10–01.
>
> Exceeding of the approved life limits could potentially result in non-contained disc failure.

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

Relevant Service Information

Rolls-Royce Deutschland Ltd & Co KG has issued Alert Service Bulletin TAY–72–A1740, dated February 11, 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 10 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $100,000 per product. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $1,000,850.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Rolls-Royce Deutschland Ltd & Co KG (Formerly Rolls-Royce plc): Docket No. FAA–2010–0301; Directorate Identifier 2009–NE–22–AD.

Comments Due Date

(a) We must receive comments by April 26, 2010.

Affected Airworthiness Directives (ADs)

(b) None.

Applicability

(c) This AD applies to Rolls-Royce Deutschland Ltd & Co KG (RRD) models Tay 620–15, Tay 650–15, and Tay 651–54 turbofan engines. These engines are installed on, but not limited to, Fokker F28 Mark 0070 and Mark 0100 airplanes and Boeing 727 series airplanes.

Reason

(d) Following a review of operational data of the Tay 651–54 engine, it has been found that the actual stress levels in the Tay 651–54 engine High Pressure Compressor (HPC) stages 1, 3, 6, 7 and 12 discs were higher than those originally assumed and therefore the approved lives needed to be reduced. We are issuing this AD to prevent HPC stages 1, 3, 6, 7, and 12 discs from exceeding the approved reduced life limits, which could result in an uncontained failure of a disc and damage to the airplane.

Actions and Compliance

(e) Unless already done, within 30 days after the effective date of this AD, amend the approved Airworthiness Limitation Section to incorporate the new, reduced life limits as follows:

For Tay 651–54 Engines

(1) The maximum approved lives (MAL) of the High Pressure Compressor (HPC) rotor discs are reduced to the MALs specified in the following Table 1 of this AD:

TABLE 1—TAY 651–54 ENGINE REDUCED DISC MAL BY PART NUMBER

For	Part Number	the MAL is
(i) HPC Stage 1 Disc	JR18049	18,800 cycles.
(ii) HPC Stage 3 Disc	JR18743	18,100 cycles.
(iii) HPC Stage 6 Disc	JR18748	19,300 cycles.
(iv) HPC Stage 7 Disc	JR17365	17,300 cycles.
(v) HPC Stage 12 Disc	JR31928	18,900 cycles.

For Tay 620–15 and Tay 650–15 Engines

(2) The MAL of certain High Pressure Compressor (HPC) rotor discs are reduced. The affected disc serial numbers and the reduced MAL are defined in Rolls-Royce Deutschland Non-Modification Service Bulletin TAY–72–A1740, dated February 11, 2009.

(3) Thereafter, except as provided in paragraph (f) of this AD, no alternative replacement times may be approved for these parts.

Other FAA AD Provisions

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

Related Information

(g) Refer to MCAI EASA Airworthiness Directive 2009–0092, dated April 17, 2009, and Rolls-Royce Deutschland Ltd & Co KG Alert Service Bulletin TAY–72–A1740, dated February 11, 2009, for related information. Contact Rolls-Royce Deutschland Ltd & Co KG; Eschenweg 11, D–15827 Blankenfelde-Mahlow, Germany; telephone +49 (0) 33 7086 1768; fax +49 (0) 33 7086 3356, for a copy of this service information.

(h) Contact Tara Chaidez, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *tara.chaidez@faa.gov;* telephone (781) 238–7773; fax (781) 238–7199, for more information about this AD.

Issued in Burlington, Massachusetts, on March 18, 2010.

Francis A. Favara,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2010–6584 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0070; Airspace Docket No. 10–ASO–14]

Amendment of Class E Airspace; Mount Airy, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E Airspace at Mount Airy, NC, to accommodate the additional airspace needed for the Standard Instrument Approach Procedures (SIAPs) developed for Mount Airy-Surry County Airport. This action enhances the safety and airspace management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before May 10, 2010.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2010–0070; Airspace Docket No. 10–ASO–14, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule 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–2010–0070; Airspace Docket No. 10–ASO–14) 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.*

Comments 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 Docket No. FAA–2010–0070; Airspace Docket No. 10–ASO–14." The postcard will be date/time stamped and returned to the commenter.

All communications received 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 the comments received. 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 from and comments submitted through *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 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 office of the Eastern Service Center, Federal Aviation Administration, room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

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

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace at Mount Airy, NC to provide controlled airspace required to support the SIAPs for Mount Airy-Surry County Airport. The existing Class E airspace extending upward from 700 feet above the surface would be modified for the safety and management of IFR operations.

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 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. 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 United States Code. 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. This proposed 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 airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would amend Class E airspace at Mount Airy-Surry County Airport, Mount Airy, NC.

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, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for 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, 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.

* * * * *

ASO NC E5 Mount Airy, NC [Amended]

Mount Airy-Surry County Airport, NC
(Lat. 36°27′35″ N., long. 80°33′11″ W.)

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Mount Airy-Surry County Airport and within 3.9 miles each side of the 353° bearing from the airport extending from the 9-mile radius to 15.3 miles north of the Mount Airy-Surry County Airport.

Issued in College Park, Georgia, on March 16, 2010.

Michael Vermuth,

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

[FR Doc. 2010–6650 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–1141; Airspace Docket No. 09–AWP–12]

Proposed Amendment of Class D and E Airspace; Yuma, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class D and Class E airspace in the Yuma, AZ, area. Additional controlled airspace is necessary to accommodate aircraft arriving and departing Somerton Airport, Somerton, AZ. This action would enhance the safety and management of aircraft operations at the airport.

DATES: Comments must be received on or before May 10, 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–2009–1141; Airspace Docket No. 09–AWP–12, 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 2009–1141 and Airspace Docket No. 09–AWP–12) 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–2009–1141 and Airspace Docket No. 09–AWP–12". 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 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/.*

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 NPRMs 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 the Federal Regulations (14 CFR) part 71 by modifying Class D airspace, and Class E airspace designated as surface area in the Yuma, AZ, area. The Yuma MCAS–Yuma International Airport airspace area would be modified to ensure the containment of aircraft arriving and departing Somerton Airport, Somerton, AZ. This action would enhance the safety and management of aircraft operations in the Yuma, AZ, area.

Class D and E airspace designations are published in paragraph 5000 and 6002, respectively, 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 D and Class E airspace designations listed in this document will be published subsequently in this Order.

The FAA has determined 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 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 modifies controlled airspace in the Yuma, AZ, area.

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 5000 Class D airspace.

* * * * *

AWP AZ D Yuma, AZ [Modified]

Yuma MCAS-Yuma International Airport, AZ
(Lat. 32°39′24″ N., long. 114°36′22″ W.)
Somerton, Somerton Airport, AZ
(Lat. 32°36′03″ N., long. 114°39′57″ W.)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 5.2-mile radius of Yuma MCAS-Yuma International Airport, excluding that airspace from the surface up to and including 300 feet above the surface from lat. 32°36′52″ N., long. 114°41′46″ W.; thence east to lat. 32°36′52″ N., long. 114°39′30″ W.; thence south to lat. 32°34′54″ N., long. 114°39′30″ W. This Class D 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 6002 Class E airspace designated as surface areas.

* * * * *

AWP AZ E2 Yuma, AZ [Modified]

Yuma MCAS-Yuma International Airport, AZ
(Lat. 32°39′24″ N., long. 114°36′22″ W.)
Somerton, Somerton Airport, AZ
(Lat. 32°36′03″ N., long. 114°39′57″ W.)

That airspace, within a 5.2-mile radius of Yuma MCAS-Yuma International Airport, excluding that airspace from the surface up to and including 300 feet above the surface from lat. 32°36′52″ N., long. 114°41′46″ W.; thence east to lat. 32°36′52″ N., long. 114°39′30″ W.; thence south to lat. 32°34′54″ N., long. 114°39′30″ W. The 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.

Issued in Seattle, Washington, on *March 12, 2010.*

Robert Henry,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2010–6655 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–1134; Airspace Docket No. 09–ANM–25]

Proposed Establishment of Class E Airspace; Lucin, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace for the Lucin VHF Omni-Directional Radio Range Tactical Air Navigational Aid (VORTAC), Lucin, UT, to facilitate

vectoring of Instrument Flight Rules (IFR) traffic from en route airspace to Salt Lake City, UT. This action would enhance the safety and management of IFR operations for the Salt Lake City, UT area.

DATES: Comments must be received on or before May 10, 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–2009–1134; Airspace Docket No. 09–ANM–25, 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 2009–1134 and Airspace Docket No. 09–ANM–25) 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–2009–1134 and Airspace Docket No. 09–ANM–25". 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 the Federal Regulations (14 CFR) part 71 by establishing Class E en route domestic airspace for the Lucin VORTAC, Lucin, UT. This action would enhance the safety and management of IFR aircraft operations by vectoring IFR aircraft from en route airspace to Salt Lake City, UT.

Class E airspace designations are published in paragraph 6006 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 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 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 establishes controlled airspace for the Lucin VORTAC, Lucin, UT.

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 6006 En Route Domestic Airspace Areas.

* * * * *

ANM UT E6 Lucin, UT [New]

Lucin VORTAC

(Lat. 41°21′47″ N., long. 113°50′26″ W.)

That airspace extending upward from 1,200 feet above the surface bounded on the west by V–269; on the east by V–484; and on the south by V–32; excluding existing controlled airspace above 8,500 feet MSL; excluding that airspace designated for federal airways; excluding the portions within Restricted Area R–6404 and Lucin MOA during their published hours of designation.

Issued in Seattle, Washington, on March 12, 2010.

Robert Henry,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2010–6656 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0001; Airspace Docket No. 10–ASO–10]

Revocation of Class D and E Airspace; Panama City, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action would remove Class D and Class E airspace areas at Panama City-Bay County Airport, Panama City, FL, as the old airport and control tower is scheduled to be closed. Controlled airspace will be established for the new airport under separate rulemaking.

DATES: Comments must be received on or before May 10, 2010.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2010–0001; Airspace Docket No. 10–ASO–10, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, Airspace Specialist, Operations Support Group, Eastern Service Center, Air Traffic Organization, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule 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–2010–0001 and Airspace Docket No. 10–ASO–10) 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://222.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 Docket No. FAA–2010–0001; Airspace Docket No. 10–ASO–10." The postcard will be date/time stamped and returned to the commenter.

All communications received 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 the comments received. 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 from and comments submitted through *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 rule, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for 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 office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

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

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to remove Class D and E airspace at Panama City-Bay County Airport, Panama City, FL. Panama City-Bay County Airport is closing to allow establishment of controlled airspace at the new airport, which is being proposed under separate rulemaking. Also, Class E airspace for Tyndall AFB would be re-established under separate rulemaking.

Class D airspace designations, Class E airspace designations as extensions to a Class D surface area (E4), and Class E5 designations are published in Paragraphs 5000, 6004 and 6005, respectively, 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 D and E airspace designations listed in this document would be published subsequently 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. 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 United States Code. 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. This proposed 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 airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it proposes to remove Class D and E airspace at Panama City-Bay County Airport, Panama City, FL.

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 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 5000 Class D Airspace.

* * * * *

ASO FL D Panama City, FL [Removed]

* * * * *

Paragraph 6004 Class E Airspace Designated as an Extension to a Class D Surface Area.

* * * * *

ASO FL E4 Panama City, FL [Removed]

* * * * *

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

* * * * *

ASO FL E5 Panama City, FL [Removed]

Issued in College Park, Georgia, on March 17, 2010.

Michael Vermuth,

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

[FR Doc. 2010–6665 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM10–6–000]

Interpretation of Transmission Planning Reliability Standard

March 18, 2010.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Requirement R1.3.10 of the Commission-approved transmission planning Reliability Standard TPL–002–0 provides that planning authorities and transmission planners must consider in their planning studies the effects of the operation of their protection systems, including backup and redundant protection systems. The North American Electric Reliability Corporation (NERC), the Commission-certified electric reliability organization, requests approval of an interpretation of Reliability Standard TPL–002–0. In this order, the Commission proposes to reject NERC's proposed interpretation of Requirement R1.3.10 of Reliability Standard TPL–002–0 and, instead, proposes an alternative interpretation of the provision.

DATES: Comments are due May 10, 2010.

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

- *Agency Web Site: http://ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Ron LeComte (Legal Information), Office of General Counsel, 888 First Street, NE., Washington, DC 20426, *ron.lecomte@ferc.gov*.

Eugene Blick (Technical Information), Office of Electric Reliability, 888 First Street, NE., Washington, DC 20426, *eugene.blick@ferc.gov*.

Edward Franks (Technical Information), Office of Electric Reliability, 888 First Street, NE., Washington, DC 20426, *edward.franks@ferc.gov*.

Lauren Rosenblatt (Legal Information), Office of Enforcement, 888 First Street, NE., Washington, DC 20426, *lauren.rosenblatt@ferc.gov*.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking

1. On November 17, 2009, the North American Electric Reliability Corporation (NERC) submitted a petition (NERC Petition) requesting approval of NERC's interpretation of Requirement R1.3.10 of Commission-approved transmission planning Reliability Standard TPL–002–0 (System Performance Following Loss of a Single Bulk Electric System Element). NERC developed the interpretation in response to a request for interpretation submitted to NERC by PacifiCorp on January 12, 2009. The Commission proposes to reject the NERC proposed interpretation of Requirement R1.3.10 of Reliability Standard TPL–002–0 and, instead, proposes an alternative interpretation of the provision.

I. Background

2. Section 215 of the Federal Power Act (FPA) requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval.[1] Specifically, the Commission may approve, by rule or order, a proposed Reliability Standard or modification to a Reliability Standard if it determines that the Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest.[2] Once approved, the Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.[3]

3. Pursuant to section 215 of the FPA, the Commission established a process to select and certify an ERO,[4] and subsequently certified NERC.[5] On April 4, 2006, NERC submitted to the Commission a petition seeking approval of 107 proposed Reliability Standards. On March 16, 2007, the Commission issued a Final Rule, Order No. 693,[6] approving 83 of the 107 Reliability Standards, including transmission planning Reliability Standards TPL–

[1] 16 U.S.C. 824.

[2] *Id.* 824o(d)(2).

[3] *Id.* 824o(e)(3).

[4] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g,* Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (2006).

[5] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g & compliance,* 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa, Inc. v. FERC,* 564 F.3d 1342 (DC Cir. 2009).

[6] *Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, FERC Stats. & Regs. ¶ 31,242, *order on reh'g,* Order No. 693–A, 120 FERC ¶ 61,053 (2007).

001–0 through TPL–004–0. In addition, pursuant to section 215(d)(5) of the FPA,[7] the Commission directed NERC to develop modifications to 56 of the 83 approved Reliability Standards, including TPL–002–0.[8]

4. NERC's Rules of Procedure provide that a person that is "directly and materially affected" by Bulk-Power System reliability may request an interpretation of a Reliability Standard.[9] In response, the ERO will assemble a team with relevant expertise to address the requested interpretation and also form a ballot pool. NERC's Rules of Procedure provide that, within 45 days, the team will draft an interpretation of the reliability standard and submit it to the ballot pool. If approved by the ballot pool and subsequently by the NERC Board of Trustees (Board), the interpretation is appended to the Reliability Standard and filed with the applicable regulatory authorities for approval.

II. Transmission Planning Reliability Standards

5. Each of the transmission planning Reliability Standards, TPL–001–0 through TPL–004–0, requires the planning authorities and transmission planners (planner) to provide a "valid assessment" that would "ensure that reliable systems are developed that meet specified performance requirements" both in the near-term (years one through five) and in the longer-term (years six through ten, or as needed). For each of these Reliability Standards, entities must adequately assess a range of operating conditions on their systems and plan to meet certain performance criteria that the Reliability Standards specify for each of four classes of contingencies.[10] The principles that planners must apply to the design of the assessment and of the supporting studies are set forth in the Requirements of the specific Reliability Standard.

6. Table I, which is incorporated into each TPL Reliability Standards, sets forth the different types of contingencies that planners must study pursuant to the specific Reliability Standard, and the performance criteria the system must meet when experiencing those contingencies to reliably meet all projected customer demand.

7. Reliability Standard TPL–002–0 requires planners to assess system performance subject to Category B contingencies ("event resulting in the loss of a single element") outlined in Table I. As provided in Table I, Category B contingencies include:

(1) A single-line-to-ground (SLG) or three-phase (3Ø) fault with "normal clearing" that removes from service either a generator, transmission circuit or transformer;[11]

(2) Loss of an element without a fault; or

(3) Outage of a single pole (direct current) line with normal clearing.

8. Requirement R1 of Reliability Standard TPL–002–0 states:

> R1. The Planning Authority and Transmission Planner shall each demonstrate through a valid assessment that its portion of the interconnected transmission system is planned such that the Network can be operated to supply projected customer demands and projected Firm (non-recallable reserved) Transmission Services, at all demand levels over the range of forecast system demands, under the contingency conditions as defined in Category B. To be valid, the Planning Authority and Transmission Planner assessments shall:
> * * *

9. Requirement R1 proceeds with sub-Requirements R1.1 through R1.5, which provide the criteria that must be met to qualify the assessment directed by Requirement R1 as valid. In particular, Requirement R1.3 mandates that the assessment shall

> [b]e supported by a current or past study and/or system simulation testing that addresses each of the following categories, showing system performance following Category B. The specific elements selected (from each of the following categories) for inclusion in these studies and simulations shall be acceptable to the associated Regional Reliability Organization(s).

Further, Requirement R1.3.10 requires the planner to

> [i]nclude the effects of existing and planned protection systems, including any backup or redundant systems.

10. In sum, Requirement R1 provides the parameters of a valid assessment of system performance when experiencing a single contingency; Requirement R1.3 defines the criteria for the "base cases" that must be included in the studies to support the assessment.[12] Requirement R1.3.10 provides as a base case criteria that the studies must include the effects of existing and planned protection systems, *including any backup or redundant systems.*

11. Requirement R1.3.10 requires that planners study how a utility's protection system,[13] which isolates faults within a defined geographic area, would operate under circumstances "including backup or redundant systems." A utility designs its protection system with "primary" protection,[14] and may also employ "redundant" protection that operates for a primary protection system component that fails. Utilities also use "backup" protection that functions to isolate a fault when the primary protection system does not operate. Depending on the specific design, backup may remove more elements, or take longer to isolate the fault than the primary protection system.[15]

III. NERC Proposed Interpretation

12. In the NERC Petition, NERC explains that it received a request from PacifiCorp for an interpretation of Reliability Standard TPL–002–0, Requirement R1.3.10, addressing three specific questions. Below, we restate the PacifiCorp questions and NERC interpretations:

Question 1: Does TPL–002–0 R1.3.10 require that all elements that are expected to be removed from service through normal operation of the protection systems be removed in simulations?

Response 1: TPL–002–0 requires that System studies or simulations be made to assess the impact of single Contingency operation with Normal Clearing. TPL–002–0, R1.3.10 does require that all elements expected to be removed from service through normal operations of the Protection Systems be removed in simulations.

Question 2: Is a Category B disturbance limited to faults with [N]ormal [C]learing where the protection system operates as designed

[7] 16 U.S.C. 824o(d)(5).

[8] Order No. 693, FERC Stats & Regs. ¶ 31,242 at P 1797.

[9] NERC Rules of Procedure, Appendix 3A, Reliability Standards Development Procedure, Version 6.1, at 26–27 (2007).

[10] TPL–001–0 through TPL–004–0 each includes the same Table I, titled "Transmission System Standards—Normal and Emergency Conditions," which identifies the classes of contingencies as Category A through Category D. TPL–002–0 addresses Category B contingencies.

[11] *See, Section IV. C.* for the definition of normal clearing.

[12] Requirement R1.3 uses the term "categories" to define the criteria that must be included in the base cases.

[13] A protection system consists of protective relays, associated communication systems, voltage and current sensing devices, station batteries and DC control circuitry for the protection of bulk electric system elements. It detects faults and initiates operation of circuit breakers, thereby isolating the faulted element(s) from the remainder of the interconnected transmission system.

[14] A primary protection scheme is the first line of defense designed to remove the minimum number of elements in the shortest time.

[15] A backup protection system isolates the fault or disturbance by removing additional elements some period of time after the non-redundant primary protection system would do so, operating because that primary protection system did not function properly. Remote backup protection refers to protection systems that operate breakers distant from the site of the contingency and therefore result in the isolation of a larger portion of the bulk electric system.

in the time expected with proper functioning of the protection system(s) or do Category B disturbances extend to protection system misoperations and failures?

Response 2: This standard does not require an assessment of the Transmission System performance due to a Protection System failure or Protection System misoperation. Protection System failure or Protection System misoperation is addressed in TPL–003–0—System Performance following Loss of Two or More Bulk Electric System Elements (Category C) and TPL–004–0—System Performance Following Extreme Events Resulting in the Loss of Two or More Bulk Electric System (BES) Elements (Category D).

Question 3: Does TPL–002–0, R1.3.10 require that planning for Category B [C]ontingencies assume a [C]ontingency that results in something other than a [N]ormal [C]learing event even though the TPL–002–0 Table I—Category B matrix uses the phrase "SLG or 3-Phase Fault, with Normal Clearing?"

Response 3: TPL–002–0, R1.3.10 does not require simulating anything other than Normal Clearing when assessing the impact of a Single Line Ground (SLG) or 3-Phase (3Ø) Fault on the performance of the Transmission System.[16]

13. In support of its request for approval, NERC contends that the proposed interpretation directly supports the reliability purpose of TPL–002–0 because it clarifies what is required for the "System simulations" cited in the main requirement without expanding the reach of the standard.[17] NERC maintains that the proposed interpretation clearly identifies what needs to be done—that all elements expected to be removed from service through normal operation of the protection system must be removed in simulations and that only normal clearing is required in the simulations. NERC states that the proposed interpretation clearly distinguishes that misoperations and failures of the protection system are not part of Reliability Standard TPL–002–0, but are addressed in other standards. NERC states that the interpretation will result in ensuring that an adequate level of reliability for the Bulk-Power System will be achieved and maintained by providing clarity and certainty in support of the objective.

14. In approving the proposed interpretation, the NERC Board stated that it applied a standard of strict construction that does not expand the reach of the Reliability Standard or correct a perceived gap or deficiency in the standard.[18] The NERC Board recommended that any gaps or deficiencies in a Reliability Standard that are evident through the interpretation process be addressed promptly by the standards drafting team. NERC states that it will examine any gaps or deficiencies in Reliability Standard TPL–002–0 in its consideration of the next version of this standard through the Reliability Standards Development Procedure.[19]

IV. Discussion

15. We propose to reject NERC's proposed interpretation of Reliability Standard TPL–002–0, Requirement R1.3.10. NERC proposes to interpret that simulations to assess the impact of single contingency operation "do[ ] not require an assessment of the Transmission System performance due to a Protection System failure or Protection System misoperation" to be in compliance with Requirement R1.3.10 of Reliability Standard TPL–002–0. NERC's proposed interpretation miscategorizes non-operation of non-redundant primary protection systems as protection system failure which is addressed in TPL–003–0 and TPL–004–0. However, pursuant to TPL–002–0, planners are required to study the effects of existing and planned protection systems, including backup and redundant systems. Accordingly, by categorizing the non-operation of non-redundant primary protection systems as a protection system failure, NERC's proposed interpretation misses studying the effects of backup and redundant protection systems pursuant to Requirement R1.3.10 of TPL–002–0. Rather, for the reasons discussed below, we believe that the Requirement R1.3.10 of TPL–002–0 requires that planners study, in their system assessments, the non-operation of primary protection systems in order to ascertain whether and how reliance on the as-designed backup or redundant protection systems affects reliability. Accordingly, we propose an interpretation of Requirement R1.3.10 of Reliability Standard TPL–002–0 consistent with our understanding.

16. In support of our proposed interpretation, we explain that planning assessments are developed through base case simulations. We then distinguish a contingency from the base case, and conclude that the non-operation of a non-redundant primary protection system is not a contingency. Finally, we explain that normal clearing of a contingency depends on the protection system that operates to clear the contingency, and that only by modeling the non-operation of non-redundant primary protection systems in the base case would the planner include the effects of existing and planned protection systems, including backup or redundant systems. For these reasons, our proposed interpretation would require modeling of the non-operation of primary protection systems to be in compliance with Requirement R1.3.10 of Reliability Standard TPL–002–000, and not by the requirements to be in compliance with Reliability Standards TPL–003–0 and TPL–004–0.

A. Assessment Through Base Case Simulations

17. Reliability Standard TPL–002–0 requires that planning authorities and planners demonstrate, through a valid assessment, that their portion of the interconnected transmission system will supply the projected customer demands and projected firm transmission service over a variety of conditions. A planner performs the assessment of its portion of the interconnected transmission system through computer modeling and simulations, in which the planner first creates base cases that reflect an array of system operating conditions. Using these base cases as a starting point, the planner then assesses the performance of the system and tests the base cases by subjecting them through computer modeling and simulations to various Category B Contingencies outlined in Table I.

18. Performance of the system as modeled, assuming all of the Contingencies taken one at a time and at any location in the bulk electric system, must meet the performance criteria specified in Table I for Category B Contingencies. The performance criteria in Table I specifies that, in the event of a Category B Contingency, the system (1) remains stable and both thermal and voltage limits remain within applicable ratings; [20] (2)

[16] NERC Petition at 10. In support for its request for an interpretation, PacifiCorp states that "[i]f TPL–002–0, R1.3.10 requires that planning for Category B Contingencies must assume failure or misoperation of all existing and planned protection systems, protection system failures previously identified as Category C [ ] Contingencies or Category D [ ] Contingencies would now become Category B Contingencies * * *" *Id.* at Appendix A at 1–2.

[17] NERC Petition at 11.

[18] *Id.* at 5.

[19] NERC states that this standard is included in Project 2006–02—Assess Transmission Future Needs and Develop Transmission Plans that is expected to be completed in the first half of 2010.

[20] TPL–002–0, Table I defines "applicable ratings" in its footnote "a". If other than normal ratings are applied, the planner must show that the bulk electric system can withstand the next contingency

continues to serve all firm demand and firm transfers;[21] and (3) does not have any cascading outages. If the studies or system simulation tests show that, for Category B Contingencies, any of the system base cases do not meet these performance criteria, pursuant to Requirement R2 of Reliability Standard TPL–002–0, the planner must determine and document a modification.

B. Distinguishing a Contingency From the Base Case

19. As previously discussed, Table I of Reliability Standard TPL–002–0 sets forth the Category B Contingencies that a planner must assess pursuant to Reliability Standard TPL–002–0. Table I defines contingencies in terms of their "initiating event(s)" and the elements the initiating event takes out of service. The determination of what elements would be taken out of service as a result of a Category B Contingency should not be confused with the number of elements ultimately taken out of service by the system's response to the initiating event.[22] For example, a contingency may involve a fault at a transformer at a generating unit. In response to the fault, operation of the primary protection system at the unit transformer, as designed, removes both the unit transformer and the associated generator from service. This scenario qualifies as a single contingency because there is only one initiating event involving one element—the transformer—even though the end state of the system includes the loss of two system elements—a unit transformer and a generator.

20. It is also important to distinguish an element taken out of service by a contingency or the operation of a protection system from an element or protection system component that the base case assumes is not in operation. Transmission elements that are not in service and generators that are not dispatched or that are assumed to be "out of service" in the base case are not considered to be contingencies. For example, if the base case assumes that three generators and one line will be out of service for load conditions or maintenance, the base case system without those facilities in service is the normal operating condition. Requirement R1.3.10 requires the system planner to study the effects of the non-operation of the non-redundant primary protection system in the base case simulations, not the effects of protection systems that are out of service.[23]

21. The Commission proposes to interpret that the non-operation of a non-redundant primary protection system is not a contingency and Requirement R1.3.10 requires that the planner model, as a condition in the base case, the non-operation of the primary protection system, accounting for operation of the redundant protection system or, alternatively, the fact that the protection system is not redundant, as appropriate. Only by modeling and simulating system conditions with base cases representing element outages and clearing times associated with non-operation of the primary protection system will a planner comply with Requirement R1.3.10 of Reliability Standard TPL–002–0, that is, to study the "effects of * * * any backup or redundant [protection] systems" on Category B contingencies. The Commission intends its proposed interpretation to ensure that the phrase is not rendered a nullity.

C. Normal Versus Delayed Clearing of the Contingency

22. Requirement R1.3.10 also requires that a planner's studies and simulations model the Category B Contingencies *with normal clearing*. Footnote "e" of Table I defines "normal" and "delayed" clearing as follows:

> Normal clearing is when the protection system operates as designed and the Fault is cleared in the time normally expected with proper functioning of the installed protection system. Delayed clearing of a Fault is due to failure of any protection system component such as a relay, circuit breaker, or current transformer, and not because of an intentional design delay.

23. The assumptions in a base case as to which protection system will operate to clear the contingency against which the base case is tested determines the amount of time associated with "operate[] as designed." Thus, the base case assumptions determine which method of clearing constitutes normal clearing. If the base case being tested assumes the primary protection system operates, normal clearing of the contingency will be the clearing that is consistent with the as-designed operation of the primary protection system. If the base case assumes the primary protection system will not operate, normal clearing will be that clearing that is consistent with the redundant protection, if provided, or as-designed backup protection for that primary protection system.[24] In a study or simulation test, how the protection systems operate will determine which circuit breakers will open and the times it takes for specific breakers to open. The changes in system topology due to the opening of circuit breakers (which takes elements out of service), the operating times in which those circuit breakers open, and the total time required to clear the fault from the system all affect how the bulk electric system performs.

24. Delayed clearing of the contingency results only when the protection system in service in the base case (whether primary or back-up) does not operate as-designed due to a failure, such as a relay failing to operate (one form of relay misoperation), stuck breaker or other disabling condition. The concepts of normal and delayed clearing apply in the same manner to non-redundant primary protection systems. An example of normal clearing with longer clearing times is if the non-operation of a primary protection system disables both the primary protection and its breaker-failure-initiate protection. The backup protection that the system base case must test would be the next level of backup that would operate in the event of the contingency. The next level of backup protection may, for example, be the protection systems located at the adjacent substations, and will typically take longer to operate the necessary breakers by removing more elements to clear the fault than the operation of the primary or breaker-failure-initiate protection systems.[25] These longer clearing times do not constitute or create a situation of delayed clearing, however, because the longer clearing times are the as-designed operating

through system adjustments that do not result in the loss of firm load or firm transfers. System adjustments for Category B Contingencies do not include tripping of capacity resources.

[21] *See* Order No. 693, FERC Stats & Regs. ¶ 31,242 at P 1791–1795.

[22] In Order No. 693, the Commission explained, "a single contingency consists of a failure of a single element that faithfully duplicates what will happen in the actual system. * * *. Thus, if the system is designed such that failure of a single element removes from service multiple elements in order to isolate the faulted element, then that is what should be simulated to assess system performance." Order No. 693, FERC Stats & Regs. ¶ 31,242 at P 1716.

[23] TPL–002–0, R.1.3.12 provides for the inclusion of a planned (including maintenance) outage of any bulk electric equipment (including protection systems or their components).

[24] For example, for a fault near one end of a line protected by distance relaying without communications, normal clearing from the end close to the fault will be zone 1 or times associated with primary clearing while the remote end will be zone 2 or times associated with back-up clearing. Both of these times are normal clearing as they are in accordance with design criteria.

[25] In the circumstance of this example, the Commission refers to the system that initiates breaker failure protection as the backup protection system that is coordinated to operate when the non-redundant primary protection system does not operate within a specified period of time.

times of the backup protection system being utilized.

25. With this understanding, the Commission proposes to interpret Requirement R1.3.10 as requiring a planner to study the effects of the as-designed backup protection system, and a planner must consider whether this clearing is consistent with the as-designed normal clearing of the protection system being studied. It follows that where a study's base case is designed to test the effects of backup protection systems, the base case assumption that the backup protection system operates in the time normally expected is not equivalent to delayed clearing due to a primary protection system component failure.

26. Rather, the backup protection system becomes the analytical starting point for the examined normal operating conditions, *i.e.,* the base case, and any additional time and elements removed from service resulting from operation of that backup protection beyond those the primary protection system would require is intentional and as designed. The operating characteristics (*i.e.,* time and elements removed) of the primary protection system are simply no longer part of the analysis. Delayed clearing in the case of simulating the effects of backup protection systems only results when there is a failure of a protection system component in the protection systems being simulated.

27. Finally, we propose that the interpretation of R1.3.10 discussed herein will apply prospectively from the effective date of any Final Rule and no entity will be subject to financial penalties for having operated in a manner inconsistent with this proposed interpretation prior to the effective date of any Final Rule.

D. Related Discussion in Order No. 693

28. The Commission did not specifically discuss a protection system failure or misoperation in Order No. 693. However, the Commission discussed the issue of a single point of protection system failure and how it factors into planning studies under the System Protection Coordination (PRC) Reliability Standards. The Commission stated:

> With respect to MISO's comment that virtually all protection systems have backups and therefore the Commission's proposals are not necessary, unless the backup protection has the same design goals and capabilities as the primary protection, a relay failure in the primary protection may still threaten system reliability. Further, we note that while the [Protection and Control] Reliability Standards do not specifically require protection systems consisting of redundant and independent protection groups for each critical element in the Bulk-Power System, such requirements are included as one potential solution in the TPL Reliability Standards.[26]

29. Therefore, the Commission has recognized the effect that non-operation of primary protection systems may have on reliability in the context of observing that redundant or backup protection systems may minimize the reliability risks that non-operation of primary protection systems poses. Consistent with the concern the Commission discussed regarding the PRC Reliability Standards, Requirement R1.3.10 of Reliability Standard TPL–002–0 provides that the effect of non-operation of primary protection systems be studied for a valid assessment of system reliability.

V. Comment Procedures

30. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due May 10, 2010. Comments must refer to Docket No. RM10–6–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

31. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov*. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

32. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

33. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

[26] Order No. 693, FERC Stats & Regs. ¶ 31,242 at P 1436, n.380 (if delayed clearing results in reliability criteria violations, one solution can be the use of redundant relay systems, citing TPL–002–0 Table I, footnote e).

VI. Document Availability

34. In addition to publishing the full text of this document in the **Federal Register,** the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington DC 20426.

35. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

36. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or e-mail at *ferconlinesupport@ferc.gov*, or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. E-mail the Public Reference Room at *public.referenceroom@ferc.gov*.

By direction of the Commission.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–6565 Filed 3–24–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 1000

[Docket No. FR–5275–C–07]

Native American Housing Assistance and Self-Determination Reauthorization Act of 2008: Negotiated Rulemaking Committee Meeting; Correction

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Negotiated Rulemaking Committee Meeting; correction.

SUMMARY: HUD published a document in the **Federal Register** on March 19, 2010, announcing a meeting of the Native American Housing Assistance & Self-Determination Negotiated Rulemaking Committee. The document contained an incorrect telephone number for the location where the meeting is to take place. The location,

address, and dates of the meeting remain as previously published.

FOR FURTHER INFORMATION CONTACT: Rodger J. Boyd, Deputy Assistant Secretary for Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4126, Washington, DC 20410; telephone number 202–401–7914 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

Correction

In the **Federal Register** of March 19, 2010, on page 13243, in the second column, correct the **ADDRESSES** caption to read:

ADDRESSES: The meeting will take place at the Doubletree Paradise Valley Resort, 5401 North Scottsdale Road, Scottsdale, Arizona 85250; telephone number 480–947–5400 (this is not a toll-free number).

Dated: March 19, 2010.

Aaron Santa Anna,

Assistant General Counsel for Legislation and Regulation.

[FR Doc. 2010–6609 Filed 3–24–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AN54

Diseases Associated With Exposure to Certain Herbicide Agents (Hairy Cell Leukemia and Other Chronic B Cell Leukemias, Parkinson's Disease and Ischemic Heart Disease)

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations concerning presumptive service connection for certain diseases based upon the most recent National Academy of Sciences (NAS) Institute of Medicine committee report, Veterans and Agent Orange: Update 2008 (Update 2008). This proposed amendment is necessary to implement a decision of the Secretary of Veterans Affairs that there is a positive association between exposure to herbicides and the subsequent development of hairy cell leukemia and other chronic B-cell leukemias, Parkinson's disease, and ischemic heart disease. The intended effect of this proposed amendment is to establish presumptive service connection for these diseases based on herbicide exposure.

DATES: Comments must be received by VA on or before April 26, 2010.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov;* by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll free number.) Comments should indicate that they are submitted in response to "RIN 2900–AN54—Diseases Associated With Exposure to Certain Herbicide Agents (Hairy Cell Leukemia and other Chronic B Cell Leukemias, Parkinson's Disease and Ischemic Heart Disease)." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Gerald Johnson, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–9727 (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 3 of the Agent Orange Act of 1991, Public Law 102–4, 105 Stat. 11, directed the Secretary to seek to enter into an agreement with NAS to review and summarize the scientific evidence concerning the association between exposure to herbicides used in support of military operations in the Republic of Vietnam during the Vietnam era and each disease suspected to be associated with such exposure. Congress mandated that NAS determine, to the extent possible: (1) Whether there is a statistical association between the suspect diseases and herbicide exposure, taking into account the strength of the scientific evidence and the appropriateness of the methods used to detect the association; (2) the increased risk of disease among individuals exposed to herbicides during service in the Republic of Vietnam during the Vietnam era; and (3) whether there is a plausible biological mechanism or other evidence of a causal relationship between herbicide exposure and the suspect disease. Section 3 of Public Law 102–4 also required that NAS submit reports on its activities every 2 years (as measured from the date of the first report) for a 10-year period. The Veterans Education and Benefits Expansion Act of 2001 (Benefits Expansion Act), Public Law 107–103, § 201(d), extended through October 1, 2014, the period for submission of NAS reports. Section 1116(b) of title 38, United States Code, as enacted by the Agent Orange Act of 1991, Public Law 102–4, provides that whenever the Secretary determines, based on sound medical and scientific evidence, that a positive association (*i.e.,* the credible evidence for the association is equal to or outweighs the credible evidence against the association) exists between exposure of humans to an herbicide agent (*i.e.,* a chemical in an herbicide used in support of the United States and allied military operations in the Republic of Vietnam during the Vietnam era) and a disease, the Secretary will publish regulations establishing presumptive service connection for that disease.

Section 2 of the Agent Orange Act of 1991, Public Law 102–4, provided that the congressional mandate that the Secretary establish presumptions of service connection under 38 U.S.C. 1116(b) would expire 10 years after the first day of the fiscal year in which the NAS transmitted its first report to VA. The first NAS report was transmitted to VA in July 1993, during the fiscal year that began on October 1, 1992. Accordingly, under the Agent Orange Act of 1991, Public Law 102–4, the mandate for VA to issue regulatory presumptions as specified in section 1116(b) expired on September 30, 2002. In December 2001, however, Congress enacted the Benefits Expansion Act, section 201(d) of which extended the mandate under section 1116(b) through September 30, 2015. Pursuant to the Benefits Expansion Act, Public Law 107–103, VA must issue new regulations between October 1, 2002, and September 30, 2015, establishing additional presumptions of service connection for diseases that the Secretary finds to be associated with exposure to an herbicide agent.

The Secretary of Veterans Affairs has determined that the available scientific and medical evidence discussed in the "Veterans and Agent Orange Update 2008," authored by the Committee to Review the Health Effects in Vietnam Veterans of Exposure to Herbicides, Institute of Medicine (IOM) of the NAS, and other information available to the Secretary, are sufficient to establish that

a positive association exists between exposure of humans to a herbicide agent and the occurrence in humans of Hairy Cell Leukemia (HCL) and other Chronic B-Cell Leukemias, Parkinson's disease (PD) and Ischemic Heart Disease (IHD). Consistent with that determination and as required by 38 U.S.C. 1116(b) and the Agent Orange Act of 1991, we propose to amend VA's adjudication regulations (38 CFR part 3) by revising section 3.309(e) to add these diseases to the diseases subject to presumptive service connection on the basis of herbicide exposure.

Hairy Cell Leukemia and Other Chronic B-Cell Leukemias

In delivering the charge to the IOM Committee, the Secretary specifically asked the IOM Committee, whether the occurrence of HCL should be regarded as associated with exposure to the chemical compounds in the herbicides used by the military in Vietnam. HCL is a chronic B-cell lymphoproliferative disorder. Because it is so rare, the Committee reported that HCL would never be studied epidemiologically on its own, and there are no studies of animals that describe HCL in animals exposed to the compounds of interest. The IOM Committee stated that HCL has been classified as a rare form of CLL and that both derive from B-cell neoplasms. Based on its biology, the Committee saw no reason to exclude HCL or any other chronic lymphoproliferative disease of B-cell origin from the overarching broader groupings for which positive epidemiologic evidence is available. Because HCL is related to chronic lymphocytic leukemia (CLL) (a disease that is already included on VA's regulatory list of diseases that qualify for presumptive service connection based upon herbicide exposure), the Committee explicitly included HCL and other chronic B-cell leukemias in its discussions and conclusions regarding CLL. The Committee explicitly re-categorized HCL and other chronic B-cell leukemias along with CLL in Update 2008, which the Committee lists as a category clarification since Update 2006. Based on its review of the available scientific and medical literature, the Committee concluded that there is sufficient evidence of an association between exposure to herbicide agents and CLL, including HCL and all other chronic B-cell hematoproliferative leukemias.

The Secretary has determined that the available scientific and medical evidence presented in Update 2008 and other information available to the Secretary are sufficient to establish a new presumption of service connection for HCL and other chronic B-cell leukemias in veterans who were exposed to herbicides used in the Republic of Vietnam. The Secretary concludes that the credible evidence for an association between exposure to an herbicide agent and the occurrence of HCL and other chronic B-cell leukemias in humans outweighs the credible evidence against such an association. Accordingly, the Secretary has determined that a presumption of service connection for HCL and other chronic B-cell leukemias is warranted pursuant to 38 U.S.C. 1116(b). Because these leukemias are related to CLL and the evidence supporting an association is the same for these leukemias, we propose to refer to them as a group in VA's regulatory list in 38 CFR 3.309(e) of diseases associated with herbicide exposure. Specifically, we propose to establish a presumption of service connection for "All chronic B-cell leukemias (including, but not limited to, hairy-cell leukemia and chronic lymphocytic leukemia)."

Parkinson's Disease

In Update 2008, the Committee placed Parkinson's disease (PD) in the category "limited or suggestive evidence of an association." This was a category change from IOM's prior report, Veterans and Agent Orange: Update 2006 (Update 2006). For Update 2008, the Committee selectively reevaluated all past epidemiologic studies that specifically assessed herbicide exposures and reviewed in detail those studies published since Update 2006. The older studies, taken as a group, suggest that there is a relationship between pesticide exposure and risk of PD, but generally did not contain sufficient exposure data to show an association specifically to the herbicides of interest. However, several studies published since Update 2006 now suggest a specific relationship between exposure to the herbicides of interest and PD. Three of the four studies published since Update 2006 showed a statistically significant odds ratio for development of PD and exposure to herbicides, most notably to 2, 4-D and 2, 4, 5-T and other chlorophenoxy herbicides. Accordingly, the recent studies are consistent with the body of epidemiologic and toxicologic data suggesting a relationship between exposure to pesticides and PD, but provide more specific evidence of an association between PD and the herbicides used in the Republic of Vietnam. The Committee noted that, to date, no studies have been done on Vietnam veterans to determine if an increased relative risk of developing PD exists for this cohort, and the Committee recommended that such studies be done. Based upon the available scientific and medical evidence, the Committee placed PD in the category of "limited or suggestive evidence of an association."

The Secretary requested expert opinion from the Parkinson's and Associated Diseases Research and Education Clinical Center (PADRECC) network, a network of VA medical professionals designed to focus on care, research, and education relating to PD. These experts believe that there is an increasing body of evidence indicating exposure to herbicides increases the risk of developing PD and developing it at an earlier age. These experts also identified a September 2008 report by Tanner, *et al.,* in Arch Neurol, 2008; 66(9):1106–1113, which found that the risk of Parkinsonism was increased by exposure to a variety of chemicals, including dioxin-like chemicals of interest in Update 2008. The Tanner study was published after Update 2008 was completed but provides additional support for an association between herbicide exposure and PD.

The Secretary has determined that the available scientific and medical evidence presented in Update 2008 and other information available to the Secretary are sufficient to establish a new presumption of service connection for PD in veterans exposed to herbicides, as the credible evidence for an association between exposure to an herbicide agent and the occurrence of PD in humans outweighs the credible evidence against such an association.

Ischemic Heart Disease

The previous Committee responsible for Update 2006 was divided as to whether the evidence related to IHD and exposure to the compounds of interest was sufficient to advance IHD from the category of "inadequate or insufficient evidence to determine whether an association exists" to the category of "limited or suggestive evidence of an association." Due to the lack of consensus, the 2006 Committee left IHD in the "inadequate or insufficient evidence" category.

For Update 2008, the Committee revisited the entire body of evidence relating herbicide exposure to heart disease risk and placed more emphasis on studies that had been rigorously conducted. These studies focused specifically on the chemicals of concern, compared Vietnam veterans to non-deployed Vietnam-era veterans, and had individual and reliable measures of exposure that permitted the evaluation of dose-response, to promote the

interpretation of epidemiologic data. The Committee identified nine studies (including two new studies) that were deemed most informative. Of these nine studies, five showed strong statistically significant associations between herbicide exposure and ischemic heart disease. The studies considered by the Committee also included data from Agent Orange sprayers, occupationally exposed populations, and environmentally exposed populations that were either prevalence surveys or mortality follow-up studies. In situations where several alternative analyses were presented, the results with the greatest specificity in the dose-response relationship were given more weight.

The Committee stated that evidence of a dose-response relationship is especially helpful in interpretation of the epidemiological data, and the Committee was impressed by the fact that those studies with the best dose information all showed evidence for risk elevations in the highest exposure categories. The Committee noted that some of the study findings could be limited by the effect of selection bias or possible confounding factors. However, the Committee noted that one of the new studies showed an association that persisted after statistical adjustments for a large number of potential confounding risk factors, which is not generally available in studies of other dioxin exposed populations. The Committee also indicated that the major potential confounders were likely inadequate to explain away the high relative risks and dose-response relationships seen in the data for IHD. Further, the Committee noted that toxicologic data supports the biologic plausibility of an association between exposure to the compounds of interest and IHD.

After considering the relative strengths and weaknesses of the evidence, and emphasizing in particular the numerous studies showing a strong dose-response relationship and good toxicology data regarding IHD, the Committee concluded that there was adequate information to advance IHD from the "inadequate or insufficient evidence" category to the "limited or suggestive evidence" category.

The Secretary has determined that the available scientific and medical evidence presented in Update 2008 and other information available to the Secretary are sufficient to establish a new presumption of service connection for IHD in veterans exposed to herbicides. After considering all of the evidence, the Secretary has concluded that the credible evidence for an association between exposure to an herbicide agent and the occurrence of IHD in humans outweighs the credible evidence against such an association. Accordingly, the Secretary has determined that a presumption of service connection for IHD is warranted pursuant to 38 U.S.C. 1116(b).

According to Harrison's Principles of Internal Medicine (Harrison's Online, Chapter 237, Ischemic Heart Disease, 2008), IHD is a condition in which there is an inadequate supply of blood and oxygen to a portion of the myocardium; it typically occurs when there is an imbalance between myocardial oxygen supply and demand. Therefore, for purposes of this regulation, the term "IHD" includes, but is not limited to, acute, subacute, and old myocardial infarction; atherosclerotic cardiovascular disease including coronary artery disease (including coronary spasm) and coronary bypass surgery; and stable, unstable and Prinzmetal's angina. Since the term refers only to heart disease, it does not include hypertension or peripheral manifestations of arteriosclerosis such as peripheral vascular disease or stroke.

Impact of the Nehmer Class Action Litigation

Nehmer v. *U.S. Department of Veterans Affairs,* Civ. Action No. 86–6160 (N.D. Cal.) (TEH) (*Nehmer*) is a long-standing class action (originated in 1986) on behalf of all veterans and survivors of veterans eligible to claim VA disability compensation benefits based on exposure to herbicides in the Republic of Vietnam during the Vietnam era. In 1989, the U.S. District Court for the Northern District of California invalidated a 1985 VA regulation governing claims based on herbicide exposure. In 1991, the parties entered into a stipulation to provide for re-adjudication of class members' claims and payment of retroactive benefits, if warranted. Since that time, the district court has issued a series of orders interpreting the 1991 stipulation to impose ongoing duties on VA. Consistent with those orders, whenever VA identifies a new disease that is associated with herbicide exposure and adds a new disease to its regulatory list, it must identify and readjudicate any previously-filed claims by the class members involving that disease and, if warranted under VA regulations governing *Nehmer* awards, must pay benefits retroactive to the date the prior claim was received by VA to the veteran or, if the veteran is deceased, to the veteran's surviving spouse, child, or parents. In July 2007, the U.S. Court of Appeals for the Ninth Circuit rejected VA's position that its duties under the *Nehmer* stipulation have ended and held that VA's duties extend through at least 2015. *Nehmer* v. *U.S. Dept. of Veterans Affairs,* 494 F.3d 846, 862–63 (9th Cir. 2007). Accordingly, the requirements of the *Nehmer* court orders for review of previously denied claims and for retroactive payment will apply to the proposed new presumptions, to the extent consistent with the court orders and 38 CFR 3.816, the VA regulation implementing those orders. The impact of these procedures is discussed in the Regulatory Impact Analysis below.

Paperwork Reduction Act

The collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521) that is contained in this document is authorized under OMB Control No. 2900–0001.

Executive Order 12866

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

VA has examined the economic, interagency, budgetary, legal, and policy implications of this rulemaking and determined that it is an economically significant rule under this Executive Order, because it will have an annual effect on the economy of $100 million or more. A Regulatory Impact Analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year).

Comment Period

Although under the rulemaking guidelines in Executive Order 12866 VA ordinarily provides a 60 day comment period, the Secretary has determined that there is good cause to limit the public comment period on this proposed rule to 30 days. This proposed rule is necessary to implement section 1116(c) of title 38 as enacted by the Agent Orange Act of 1991, Public Law 102–4, which sets forth time limits for rulemaking when the Secretary determines that a new presumption of service connection for veterans exposed to herbicides used in the Republic of Vietnam is warranted. Those time limits include the requirement for issuance of final regulations "[n]ot later than 90 days after the date on which the Secretary issues proposed regulations." 38 U.S.C. 1116(c)(2). The statute thus requires VA to act expeditiously to issue final rules, which will allow VA to begin providing benefits to veterans and their families based on this rule. A 30-day notice and comment period is necessary both to facilitate expeditious issuance of final regulations and to promote rapid action on affected benefits claims.

Regulatory Impact Analysis

VA followed OMB Circular A–4 to the extent feasible in this regulatory analysis. The circular first calls for a discussion of the Statement of Need for the regulation. As discussed in the preamble, the Agent Orange Act of 1991, as codified at 38 U.S.C. 1116 requires the Secretary of Veterans Affairs to publish regulations establishing a presumption of service connection for those diseases determined to have a positive association with herbicide exposure in humans.

Statement of Need: On October 13th, 2009, the Secretary of Veterans Affairs, Eric K. Shinseki, announced his intent to establish presumptions of service connection for PD, IHD, and hairy cell/B cell leukemia for veterans who were exposed to herbicides used in the Republic of Vietnam during the Vietnam era.

Summary of the Legal Basis: This rulemaking is necessary because the Agent Orange Act of 1991 requires the Secretary to promulgate regulations establishing a presumption of service connection once he finds a positive association between exposure to herbicides used in the Republic of Vietnam during the Vietnam era and the subsequent development of any particular disease.

Alternatives: There are no feasible alternatives to this rulemaking, since the Agent Orange Act of 1991 requires the Secretary to initiate rulemaking once the Secretary finds a positive association between a disease and herbicide exposure in Vietnam during the Vietnam era.

Risks: The rule implements statutorily required provisions to expand veteran benefits. No risk to the public exists.

Anticipated Costs and Benefits: We estimate the total cost for this rulemaking to be $13.6 billion during the first year (FY2010), $25.3 billion for 5 years, and $42.2 billion over 10 years. These amounts include benefits costs and government operating expenses for both Veterans Benefits Administration (VBA) and Veterans Health Administration (VHA). A detailed cost analysis for each Administration is provided below.

Veterans Benefits Administration (VBA) Costs

We estimate VBA's total cost to be $13.4 billion during the first year (FY2010), $24.3 billion for five years, and $39.7 billion over ten years.

Benefits Costs ($000s)	1st year (FY10)	5 year	10 year
Retroactive benefits costs*	12,286,048	**12,286,048	**12,286,048
Recurring costs from Retroactive Processing	0	4,388,773	10,300,132
Increased benefits costs for Veterans currently on the rolls	415,927	2,188,784	4,864,755
Accessions	675,214	4,645,609	11,330,294
Administrative Costs			
FTE costs	***4,554	797,473	894,614
New office space (minor construction)	.....	12,835	12,835
IT equipment	.....	30,232	32,805
Totals	13,381,743	24,349,746	39,721,476

* Retroactive benefits costs are paid in the first year only.
** Inserted for cumulative totals.
*** FTE costs in FY 2010 represent a level of effort of current FTE that will be used to work claims received in FY2010. New hiring will begin in 2011.

Of the total VBA benefits costs identified for FY 2010, $12.3 billion accounts for retroactive benefit payments. Ten-year total costs for ischemic heart disease is $31.9 billion, Parkinson's disease accounts for $3.5 billion, and hairy cell and B cell leukemia is the remaining $3.4 billion.

TOTAL OBLIGATIONS BY PRESUMPTIVE CONDITION

($000's)	Retroactive payments	1st year	5 year	10 year
Ischemic Heart disease	$9,877,787	$900,470	$9,307,716	$21,978,301
Parkinson's	692,204	166,300	1,189,143	2,796,852
Hairy Cell/B cell Leukemia	1,716,057	24,372	726,306	1,720,028
Subtotal	12,286,048	1,091,142	11,223,165	26,495,181
Total	12,286,048	*13,377,190	*23,509,213	*38,781,229

* Includes Retroactive Payments.

Methodology

The cost estimate for the three presumptive conditions considers retroactive benefit payments for Veterans and survivors, increases for Veterans currently on the compensation rolls, and potential accessions for Veterans and survivors. There are numerous assumptions made for the purposes of this cost estimate. At a minimum, four of those could vary considerably and the result could be dramatic increases or decreases to the mandatory benefit numbers provided.

The estimate assumes:

- A prevalence rate of 5.6% for IHD based upon information extracted from the CDC's Web site. Even slight variations to this number will result in significant changes.
- An 80% application rate in most instances. We have prior experiences that have been as low as in the 70% range and as high as in the 90% range.
- New enrollees will, on average, be determined to have about a 60% degree of disability for IHD. This would mirror the degree of disability for the current Vietnam Veteran population on VA's rolls. However, most of the individuals have had the benefit of VHA health care. We cannot be certain that the new population of Vietnam Veterans coming into the system will mirror that average.
- Only the benefit costs of the presumptive conditions listed. Secondary conditions, particularly to IHD, may manifest themselves and result in even higher degrees of disability ultimately being granted.

Retroactive Veteran and Survivor Payments

Vietnam Veterans Previously Denied

In 2010, approximately, 86,069 Vietnam beneficiaries (as of August 2009 provided by PA&I) will be eligible to receive retroactive payments for the new presumptive conditions under the provisions of 38 CFR 3.816 (Nehmer). Of this total, 69,957 are living Vietnam Veterans, of which 62,206 were denied for IHD, 5,441 were denied for hairy cell or B cell leukemia, and the remaining 2,310 for Parkinson's disease. Of those previously denied service connection for the three new presumptive conditions, 52,918, or nearly 76 percent, are currently on the rolls for other service-connected disabilities.

Compensation and Pension (C&P) Service assumes the average degree of disability for both Parkinson's disease and hairy cell/B cell leukemia will be 100 percent, and IHD will be 60 percent. Based on the Combined Rating Table, we assume Veterans currently not on the rolls would access at the percentages identified above. For those Veterans currently on the rolls for other service-connected disabilities, we assume they would receive a retroactive award based on the higher combined disability rating. For example, a Veteran who is on the rolls and rated 10 percent disabled who establishes presumptive service connection for Parkinson's disease will result in a higher combined rating of 100 percent and receive a retroactive award for the difference. For purposes of this cost estimate, we assumed that Veterans previously denied service connection for one of the three new conditions who are currently receiving benefits were awarded benefits for another disability concurrently.

Based on the Nehmer case review in conjunction with the August 2006 Haas Court of Appeals for Veterans Claims (CAVC) decision, C&P Service identified an average retroactive payment of 11.38 years for Veterans whose claims were previously denied. Obligations for retroactive payments for Veterans not currently on the rolls were calculated by applying the caseload to the benefit payments by degree of disability, multiplied by the average number of years for Veterans' claims. For those who are on the rolls, based on a distribution by degree of disability, obligations were calculated by applying the increased combined degree of disability for those currently rated zero to ninety percent. Of the total 52,918 currently on the rolls, 8,348 are currently rated 100 percent disabled and, therefore, would not likely receive a retroactive award payment.

Of the total 86,069 Vietnam beneficiaries, a total of 69,957 are living Vietnam Veterans. Of this total, 52,918 are currently on the rolls for other service-connected disabilities and 17,039 are off the compensation rolls (52,918 + 17,039 = 69,957). Of the 52,918 Vietnam Veterans who are on the rolls, 8,348 are currently rated 100 percent disabled and would not likely receive a retroactive payment (17,039 − 8,348 = 8,691 + 52,918 = 61,609).

VETERAN CASELOAD AND OBLIGATIONS FOR RETROACTIVE BENEFITS

Presumptive conditions	Caseload	Retroactive payments ($000's)
Ischemic Heart Disease	54,926	$7,837,369
Parkinson's Disease	2,042	568,920
Hairy Cell/B Cell Leukemia	4,641	1,209,586
Total	61,609	9,615,875

Vietnam Veteran Survivors Previously Denied

Survivor caseload was determined based on Veteran terminations. Based on data obtained from PA&I, of the 86,069 previous denials, 16,112 of the Vietnam Veterans are deceased. Of the deceased population, 13,420 were Veterans previously denied claims for IHD, 2,165 were denied for hairy cell or B cell leukemia, and 527 were denied for Parkinson's disease. We assumed that 90 percent of the survivor caseload will be new to the rolls and the remaining ten percent are currently in receipt of survivor benefits.

The 2001 National Survey of Veterans found that approximately 75 percent of Veterans are married. With the marriage rate applied, we estimate there are 12,084 survivors in 2010. Based on the Nehmer case review in conjunction with the August 2006 Haas Court of Appeals for Veterans Claims (CAVC) decision, C&P Service identified an average retroactive payment of 9.62 years for Veterans' survivors. Under Nehmer, in addition to survivor dependency and indemnity compensation (DIC) benefits, survivors are also entitled to the Veteran's retroactive benefit payment to the date of the Veteran's death. Obligations for survivors who were denied claims were determined by applying the survivor caseload for each presumptive condition to the average survivor compensation benefit payment from the 2010 President's Budget and the average number of years for the survivor's claim (9.62 years). Veteran benefit payments to which survivors are entitled were calculated similarly with the exception of applying the survivor caseload for each presumptive condition to the difference between the average Veteran claim of 11.38 years and the average survivor claim of 9.62 years. The estimated remaining 4,028 deceased Veterans who were not married would have their retroactive benefit payment applied to their estate.

Of the 86,069 Vietnam beneficiaries, a total of 16,112 are Vietnam Veterans that are deceased. Of this total, an estimated 12,084 were married and an estimated 4,028 were not married (12,084 + 4,028 = 16,112).

SURVIVOR CASELOAD AND OBLIGATIONS FOR RETROACTIVE BENEFITS

Presumptive conditions	Caseload	Retroactive payments ($000's)
Ischemic Heart Disease	13,420	$2,040,418
Parkinson's Disease	527	123,284
Hairy Cell/B Cell Leukemia	2,165	506,470
Total	16,112	2,670,173

Recurring Veteran and Survivor Payments

Retroactive caseload obligations for both Veterans and survivors become a recurring cost and are reflected in out-year estimates. Mortality rates are applied in the out years to determine caseload.

RECURRING VETERAN AND SURVIVOR CASELOAD AND OBLIGATIONS FROM RETROACTIVE PROCESSING

FY	Veteran caseload	Survivor caseload	Obligations ($000s)
2010	N/A	N/A	N/A
2011	61,365	10,672	1,079,310
2012	61,243	10,570	1,084,209
2013	61,121	10,458	1,102,800
2014	61,000	10,336	1,122,454
2015	60,879	10,201	1,142,251
2016	60,758	10,052	1,162,167
2017	60,637	9,891	1,182,189
2018	60,517	9,716	1,202,298
2019	60,397	9,526	1,222,453
Total	.....	.....	10,300,132

Vietnam Veterans (Reopened Claims)

We expect Veterans who are currently on the compensation rolls and have any of the three presumptive conditions to file a claim and receive a higher combined disability rating beginning in 2010. We anticipate that Veterans receiving compensation for other service-connected conditions will continue to file claims over ten years. Total costs are expected to be $415.9 million the first year and approximately $4.9 billion over ten years.

According to the Defense Manpower Data Center (DMDC), there are 2.6 million in-country Vietnam Veterans. With mortality applied, an estimated 2.1 million will be alive in 2010. C&P Service assumes that 34 percent of this population are service connected for other conditions and are already in receipt of compensation benefits. In 2010, we anticipate that 725,547 Vietnam Veterans will be receiving compensation benefits. This number is further reduced by the number of Veterans identified in the previous estimate for retroactive claims (52,918). C&P Service assumes an average age of 63 for all Vietnam Veterans. With prevalence and mortality rates applied, and an estimated 80 percent application rate and 100 percent grant rate, we calculate that 32,606 Veterans currently on the rolls will have a presumptive condition in 2010. Of this total, we anticipate 27,909 cases will result in increased obligations. Of the 27,909 Veterans, 25,859 are associated with IHD, 1,693 are associated with Parkinson's disease, and the remaining 357 are associated with hairy cell/B cell leukemia. In future years, the estimated number of Veteran reopened claims decreases to almost one thousand cases and continue at a decreasing rate. The cumulative effect of additional cases with mortality rates applied is shown in the chart below.

The Vietnam Era caseload distribution by degree of disability provided by C&P Service was used to further distribute the total Vietnam Veterans who will have a presumptive condition in 2010 by degree of disability for each of the three new presumptive conditions. We assume 100 percent for the average degree of disability for both Parkinson's disease and hairy cell/B cell leukemia and 60 percent for IHD. Based on the Combined Rating Table, Veterans that are on the rolls for other service-connected conditions (with the exception of those that are currently receiving compensation benefits for 100 percent disability), would receive a higher combined disability rating if they have any of the three new presumptive conditions.

September average payments from the 2010 President's Budget were used to calculate obligations. These average payments are higher than schedular rates due to adjustments for dependents, Special Monthly Compensation, and Individual Unemployability. The difference in average payments due to higher ratings was calculated, annualized, and applied to the on-rolls caseload to determine increased obligations. Because this particular Veteran population is currently in receipt of compensation benefits, survivor caseload and obligations would not be impacted.

REOPENED CASELOAD AND OBLIGATIONS

FY	Veteran caseload	Obligations ($000s)
2010	27,909	415,927
2011	28,340	418,928
2012	29,051	431,726
2013	29,746	451,042
2014	30,425	471,161
2015	31,086	491,648
2016	31,746	512,767
2017	32,404	534,529
2018	33,061	556,958
2019	33,716	580,070
Total	.....	4,864,755

Vietnam Veteran and Survivor Accessions

We anticipate accessions for both Veterans and survivors beginning in 2010 and continuing over ten years. Total costs are expected to be $675.2 million in the first year and total just over $11.3 billion from the cumulative effect of cases accessing the rolls each year.

To identify the number of Veteran accessions in 2010, we applied prevalence rates to the anticipated living Vietnam Veteran population of 2,133,962, and reduced the population by those identified in the previous estimates for retroactive and reopened claims. Based on an expected application rate of 80 percent and a 100 percent grant rate, 28,934 accessions are expected. Of the 28,934 Veteran accessions, 25,505 are associated with IHD, 3,074 are associated with Parkinson's disease, and the remaining 355 are associated with hairy cell/B cell leukemia. In the out years, anticipated Veteran accessions drop to approximately 3,400 cases in 2011, and continue at a decreasing rate. The cumulative effect of additional cases coupled with applying mortality rates is shown in the chart below.

To calculate obligations, the caseload was multiplied by the annualized average payment. We assumed those accessing the rolls due to IHD will be rated 60 percent disabled and those with either Parkinson's disease or hairy cell/B cell leukemia will be rated 100 percent disabled. Average payments were based on the 2010 President's Budget with the Cost of Living Adjustments factored into the out years.

The caseload for survivor compensation is associated with the number of service-connected Veterans' deaths. There are two groups to consider for survivor accessions: Those survivors associated with Veterans who never filed a claim and died prior to 2010; and survivors associated with the mortality rate applied to the Veteran accessions noted above.

To calculate the survivor caseload associated with Veterans who never filed a claim and died prior to 2010, general mortality rates were applied to the estimated total Vietnam Veteran population (2.6 million). We estimate that almost 500,000 Vietnam Veterans were deceased by 2010. Prevalence rates for each condition were applied to the total Veteran deaths to estimate the number of deaths due to each condition. With the marriage rate and survivor mortality applied, we anticipate 20,961 eligible spouses at the end of 2010. We assume that half of this population will apply in 2010 and the remaining in 2011. Obligations were calculated by applying average survivor compensation payments to the caseload each year.

The second group of survivors associated with Veteran accessions was calculated by applying mortality rates for each of the presumptive conditions to the estimated eligible Veteran population (28,934). In 2010, 57 Veteran deaths are anticipated as a result of one of the new presumptive conditions. With the marriage rate applied and aging the spouse population (and assuming spouses were the same age as Veterans), we calculated 42 spouses at the end of 2010. Average survivor compensation payments were applied to the spouse caseload to determine total obligations.

VETERAN AND SURVIVOR ACCESSIONS CUMULATIVE CASELOAD AND TOTAL OBLIGATIONS

FY	Veteran caseload	Survivor caseload	Total obligations
2010	28,934	10,416	$675,214
2011	32,270	20,265	882,974
2012	35,541	20,693	955,525
2013	38,744	20,487	1,028,467
2014	41,874	20,283	1,103,429
2015	44,928	20,081	1,179,725
2016	47,900	19,881	1,257,259
2017	50,787	19,682	1,335,922
2018	53,583	19,485	1,415,601
2019	56,285	19,290	1,496,178
Total	.....	.....	11,330,294

Estimated Claims From Veterans Not Eligible

Based on program history, we anticipate that we will also receive claims from Veterans who will not be eligible for presumptive service connection for the three new conditions.

These claims will be received from two primary populations:

- Veterans with a presumptive disease who did not serve in the Republic of Vietnam.
- Claims from Vietnam Veterans with hypertension who claim "heart disease."

We applied the prevalence rate of IHD, Parkinson's disease and hairy cell/B cell leukemia to the estimated population of Veterans who served in Southeast Asia during the Vietnam Era (45,304, 32, and 6 respectively), and assumed that 10 percent of that population will apply for presumptive service connection.

Review of data obtained from PA&I shows that 23 percent of Vietnam Veterans who have been denied entitlement to service connection for hypertension also have nonservice-connected heart disease. We applied the prevalence rate of hypertension to the living Vietnam Veteran population, and then subtracted 23 percent who are assumed to also have IHD. We assumed that 10 percent of the remaining population would apply for presumptive service connection to arrive at an estimated caseload of 111,256.

We then assumed that 25 percent of the ineligible population would apply in 2010, 25 percent would apply in 2011, and the remaining population would apply over the next 8 years. For purposes of claims processing, anticipated claims are as follows. The chart below reflects workload, which is not directly comparable to the preceding caseload charts.

TOTAL CLAIMS

FY	Retroactive claims	Reopened claims	Accessions	Claims not eligible	Total claims
2010	86,069	32,606	39,350	27,814	185,839
2011	.....	1,069	13,806	27,814	42,689

TOTAL CLAIMS—Continued

FY	Retroactive claims	Reopened claims	Accessions	Claims not eligible	Total claims
2012		1,051	3,386	6,954	11,391
2013		1,032	3,329	6,954	11,314
2014		1,011	3,267	6,954	11,232
2015		989	3,201	6,954	11,143
2016		989	3,129	6,953	11,071
2017		989	3,053	6,953	10,995
2018		989	2,971	6,953	10,913
2019		989	2,885	6,953	10,827

VBA Administrative Costs

Administrative costs, including minor construction and information technology support are estimated to be $4.6 million during FY2010, $841 million for five years and $940 million over ten years.

C&P Service, along with the Office of Field Operations, estimated the FTE that would be required to process the anticipated claims resulting from the new presumptive conditions using the following assumptions:.

1. 185,839 additional claims in addition to the projected 1,146,508 receipts during FY2010. This includes:

- 86,069 retroactive readjudications under Nehmer.
- 89,354 new and reopened claims from veterans.
- 10,416 new claims from survivors.

2. The average number of days to complete all claims in FY2010 will be 165.

3. Priority will be given to those Agent Orange claims that fall in the Nehmer class action.

In FY2010, we will leverage the existing C&P workforce to process as many of these new claims as possible, once the regulation is approved, but especially the Nehmer cases. However, to fully accommodate this additional claims volume with as little negative impact as possible on the processing of other claims, we plan to add 1,772 claims processors to be brought on in the FY2011 budget and timeframe. This approximate level of effort will be sustained through 2012 and into 2013 in order to process these claims without significantly degrading the processing of the non-presumptive workload.

- Net administrative costs for payroll, training, additional office space, supplies and equipment are estimated to be $4.6 million in FY2010, $165 million in FY2011, $798 million over five years, and $895 million over 10 years. Additional support costs for minor construction are expected to be $12.8 million over the five and ten year period. Information Technology (computers and support) are assumed to require $30.2 million over five years and $32.8 million over ten years.

Veterans Health Administration (VHA) Costs

We estimate VHA's total cost to be $236 million during the first year (FY2010), $976 million for five years, and $2.5 billion over ten years.

FY2010 and FY2011 Summary:

- FY2010 new enrollee patients are expected to number 8,680.
- FY2011 additional new enrollees are expected to number 1,018.
- FY2010 costs for C&P examinations are expected to be $114M.
- FY2011 costs for C&P examinations are expected to be $23M.
- FY2010 health care costs (inclusive of travel) are expected to be $236M (using cost per patient of 13,500).
- FY2011 health care costs (inclusive of travel) are expected to be $165M (using cost per patient of 14,100).
- Combined costs are as follows:
  - FY2010: $236M.
  - FY2011: $165M.

Assumptions

- 30% of Veterans newly determined to be service-connected will enroll and will use VA health care.
- Newly enrolled Veterans will be Priority Group 1 Veterans.
- The cost per patient is arrived at using the average cost per Priority Group 1 patient aged between 45–64.
- Every VBA case will require a new exam.
- It is assumed that 100% of newly enrolled Veterans will request mileage reimbursement. The average amount of mileage reimbursement claims per Veteran is $511 (this amount reflects to the FY2009 actual average amount).

Distribution of Disability Claims

VBA has established estimates for claims workload for Veterans. Figure 1 provides breakdown of disability claims.

Overall, VBA anticipates 69,957 claims. Of these, 17,039 will be for Veterans whose previous claims for disability compensation were denied. Additionally, VBA anticipates reopened claim volume of 32,606 claims in FY2010 with subsequent decreases to 1,069 per year in FY2011. VBA anticipates 28,934 accessions in FY2010. These are new disability compensation awards—for Veterans who did not previously have an award for service connected disability compensation. Additionally, in FY2010 VBA anticipates disability claim volume associated with the presumptive SC determination to be 159,311 and to exceed 270,000 through FY2019.

FIGURE 1

FY	Retroactive claims	Retroactive claims representing new SC disability award	Reopened claims	Accessions	Total disability claim volume
2010	69,957	17,039	32,606	28,934	159,311
2011			1,069	3,393	31,207
2012			1,051	3,335	10,289
2013			1,032	3,273	10,227

FIGURE 1—Continued

FY	Retroactive claims	Retroactive claims representing new SC disability award	Reopened claims	Accessions	Total disability claim volume
2014			1,011	3,207	10,161
Subtotals			36,769	42,142	221,195
2015			989	3,137	10,091
2016			989	3,062	10,016
2017			989	2,983	9,937
2018			989	2,898	9,852
2019			989	2,809	9,763
Totals	69,957		41,714	57,031	270,854

New Enrollments and Changed Enrollments

The disability compensation workload, the resulting increases in service-connected patients, and the increased combined service connected percents will both add new patients to VA's health care system and will change the priority levels of Veterans currently enrolled in VA's health care system.

For purposes of estimation, it is assumed that 30% of Veterans "Accessions" will enroll in the system each year. For FY2010, this means that 8,680 of the 28,934 Veteran "Accessions". Figure 2 provides the estimate of new enrollments per year for the ten year period. In all, it is estimated that 17,109 new Veterans will enroll in VA's health care system.

FIGURE 2

FY	New enrollees per year	New enrollees cumulative
2010	8,680	8,680
2011	1,018	9,698
2012	1,001	10,699
2013	982	11,681
2014	962	12,643
Subtotals	12,643	
2015	941	13,584

FIGURE 2—Continued

FY	New enrollees per year	New enrollees cumulative
2016	919	14,502
2017	895	15,397
2018	869	16,267
2019	843	17,109
Totals	17,109	17,109

It is assumed that Veterans enrolling will be Priority Group 1 Veterans and that they will use VA health care services.

For purposes of estimation, it is assumed that 40% of the Veterans whose claims are reopened will have been enrolled in VA's health care system and that their Priority Group will move from a copay required status to a copay exempt status. Additionally, it is assumed that their third party collections will be lost. It is assumed that 10% of the accessions will result in changes to Veterans who are currently enrolled. These Veterans would be enrolled in a copay required status and would move to copay exempt status. In FY2010 it is estimated that 43,919 Veterans would have their enrollment status changed, and FY 2011 it is estimated that an additional 767 Veterans would have their enrollment status changed. Figure 3 provides these estimated changes in enrollment status per year and cumulatively.

FIGURE 3

FY	Upgraded enrollees per year	Upgraded enrollees cumulative
2010	43,919	43,919
2011	767	44,686
2012	754	45,439
2013	740	46,180
2014	725	46,905
Subtotals	46,905	46,905
2015	709	47,614
2016	702	48,316
2017	694	49,010
2018	685	49,695
2019	677	50,372
Totals	50,372	50,372

Disability Exams Associated Costs

It is assumed that each VBA case will result in disability examinations for the Veteran. In all, it is estimated that 270,854 disability examinations will need to be performed. An escalation factor of 4% is applied to cost of disability examinations.

FIGURE 4

FY	Total disability claim volume	Cost per disability exam *	Annual cost per disability exams
2010	159,311	$719	$114,544,609
2011	31,207	748	23,335,346
2012	10,289	778	8,001,451
2013	10,227	809	8,271,365
2014	10,161	841	8,546,705
Subtotals	221,195		162,699,475
2015	10,091	875	8,827,339
2016	10,016	910	9,112,200
2017	9,937	946	9,401,942
2018	9,852	984	9,694,379
2019	9,763	1,023	9,991,075

FIGURE 4—Continued

FY	Total disability claim volume	Cost per disability exam *	Annual cost per disability exams
Totals	270,854		209,726,410

* Source: Allocation Resource Center.

Health Care and Total Costs

Figure 5 provides extended health care costs per year and includes costs for C&P disability examinations and travel associated with C&P examinations. The cost per patient is arrived at using the average cost per Priority Group 1 patient aged between 45–64. It is assumed that 100% of newly enrolled Veterans will request mileage reimbursement. The average amount of mileage reimbursement claims per Veteran is $511 (this amount reflects to the FY2009 actual average amount). Total costs over the 10-year period are estimated to be in excess of $2.4B.

FIGURE 5

FY	Annual cost per disability exams	Cost per BT mileage claim	Beneficiary travel costs (41.5 cents/mile)	Cost per patient	Health care costs per patient	Extended annual costs
2010	$114,544,609	$511	$4,435,582	$13,500	$117,182,700	$236,162,891
2011	23,335,346	511	4,955,729	14,100	136,743,210	165,034,285
2012	8,001,451	511	5,466,985	14,700	157,269,420	170,737,855
2013	8,271,365	511	5,968,736	15,100	176,375,550	190,615,650
2014	8,546,705	511	6,460,369	15,700	198,488,820	213,495,893
Subtotals	162,699,475		27,287,400		786,059,700	976,046,575
2015	8,827,339	511	6,941,271	16,300	221,414,310	237,182,919
2016	9,112,200	511	7,410,675	17,100	247,989,330	264,512,205
2017	9,401,942	511	7,867,969	17,900	275,609,880	292,879,791
2018	9,694,379	511	8,312,233	18,800	305,812,080	323,818,692
2019	9,991,075	511	8,742,852	19,800	338,764,140	357,498,068
Totals	209,726,410		66,562,400		2,175,649,440	2,451,938,251

Summary

Combined estimated increases in health care costs and lost revenues are presented in Figure 6.

FIGURE 6

FY	Extended annual costs
2010	$236,162,891
2011	165,034,285
2012	170,737,855
2013	190,615,650
2014	213,495,893
Subtotals	976,046,575
2015	237,182,919
2016	264,512,205
2017	292,879,791
2018	323,818,692
2019	357,498,068
Totals	2,451,938,251

Unfunded Mandates

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

Regulatory Flexibility Act

The Secretary certifies that the adoption of this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule would not directly affect any small entities; only individuals could be directly affected. Therefore, under 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Congressional Review Act

Under the Congressional Review Act, a major rule may not take effect until at least 60 days after submission to Congress of a report regarding the rule. A major rule is one that would have an annual effect on the economy of $100 million or more or have certain other impacts. We have determined this rulemaking to be a major rule under the Congressional Review Act.

Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program numbers and titles for this proposed rule are 64.109, Veterans Compensation for Service-Connected Disability, and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, veterans, Vietnam.

Approved: December 23, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

For the reasons set out in the preamble, VA is proposing to amend 38 CFR part 3 as follows:

PART 3—ADJUDICATION

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

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

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

§ 3.309 [Amended]

2. In § 3.309(e) the listing of diseases is amended as follows:

a. By removing "Chronic lymphocytic leukemia" and adding, in its place, "All chronic B-cell leukemias (including, but not limited to, hairy-cell leukemia and chronic lymphocytic leukemia)".

b. By adding "Parkinson's disease" immediately preceding "Acute and subacute peripheral neuropathy".

c. By adding "Ischemic heart disease (including, but not limited to, acute, subacute, and old myocardial infarction; atherosclerotic cardiovascular disease including coronary artery disease (including coronary spasm) and coronary bypass surgery; and stable, unstable and Prinzmetal's angina)" immediately following "Hodgkin's disease".

[FR Doc. 2010–6549 Filed 3–24–10; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2007–1043; FRL–9129–6]

Approval and Promulgation of Air Quality Implementation Plans; Michigan; PSD Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to convert a conditional approval of revisions to the Michigan State Implementation Plan (SIP) to a full approval under the Federal Clean Air Act (CAA). The revisions consist of requirements of the prevention of significant deterioration (PSD) construction permit program in Michigan. As required by the conditional approval, Michigan has submitted a SIP revision pertaining to the "potential to emit" and "emission unit" definitions and EPA has found the revisions acceptable.

DATES: Comments must be received on or before April 26, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2007–1043, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail: blakley.pamela@epa.gov.*

3. *Fax:* (312) 692–2450.

4. *Mail:* Pamela Blakley, Chief, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* Pamela Blakley, Chief, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Laura Cossa, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–0661, *cossa.laura@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register,** EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register.**

Dated: March 11, 2010.

Walter W. Kovalick Jr.,

Acting Regional Administrator, Region 5.

[FR Doc. 2010–6475 Filed 3–24–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 1

[GC Docket No. 10–44; FCC 10–32]

Amendment of Certain of the Commission's Rules of Practice and Procedure and Rules of Commission Organization

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document seeks comment on proposed revisions to the Commission's procedural rules and organizational rules. The proposals are intended to increase efficiency and modernize our procedures, enhance the openness and transparency of Commission proceedings, and clarify certain procedural rules. We seek comment on the proposed rule language, as well as the other proposals contained in this document.

DATES: Comments must be submitted by May 10, 2010 and reply comments must be submitted by June 8, 2010. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before May 24, 2010.

ADDRESSES: You may submit comments, identified by GC Docket No. 10–44, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

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

FOR FURTHER INFORMATION CONTACT: Richard Welch, Office of General Counsel, 202–418–1740. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an e-mail to *PRA@fcc.gov* or contact Leslie Smith, OMD, 202–418–0217.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking,* FCC 10–32, adopted on February 18, 2010, and released on February 22, 2010. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 1, 1998.

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/* or the Federal eRulemaking Portal: *http://www.regulations.gov.*
- ECFS filers must transmit one electronic copy of the comments for GC Docket No. 10–44. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail.
- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

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

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW–A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

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

Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, or via e-mail to *fcc@bcpiweb.com.* Documents in GC Docket No. 10–43 will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488–5300, facsimile (202) 488–5563, TTY (202) 488–5562, e-mail *fcc@bcpiweb.com.*

In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via e-mail to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via e-mail to *Nicholas_A._Fraser@omb.eop.gov* or via fax at 202–395–5167.

I. Introduction

1. This document seeks comment on proposed revisions to the Commission's part 1 procedural rules and part 0 organizational rules. The proposals are intended to increase efficiency and modernize our procedures, enhance the openness and transparency of Commission proceedings, and clarify certain procedural rules. We propose specific draft revised rules. We seek comment on the proposed rule language, as well as the other proposals contained in this Notice of Proposed Rulemaking. (We note that because the part 1 and part 0 rules are procedural and organizational in nature, notice and comment is not required under the Administrative Procedure Act. 5 U.S.C. 553(b)(A) (notice and comment rulemaking requirements do not apply to rules of agency organization, procedure, or practice). Nonetheless, in the spirit of openness and transparency, and to assemble the best possible record to inform our decisions, we have elected voluntarily to utilize notice and comment procedures in this instance.)

2. The proposed rule revisions fall into three general categories. First, we seek to improve and streamline our processes governing reconsideration of Commission decisions. Specifically, we propose to delegate authority to the staff to dismiss or deny defective or repetitive petitions filed with the Commission for reconsideration of Commission decisions. We also propose to amend the rule that authorizes the Commission to reconsider a decision on its own motion within 30 days to make clear that the Commission may modify a decision, not merely set it aside or vacate it. Second, we seek to increase the efficiency of our docket management and make it easier for interested persons to follow and participate in our proceedings. To achieve this goal, we propose to expand the use of docketed proceedings, increase electronic filing of comments, and delegate authority to the staff in certain circumstances to notify parties electronically of docket filings and close inactive dockets. Third, we seek to address uncertainties that have developed in the application of two part 1 rules. We propose to set a default effective date for FCC rules in the event the Commission does not specify an effective date in its rulemaking order. In addition, we propose to revise our computation of time rule to adopt the "next business day" approach when a Commission rule or order specifies that Commission action shall occur on a day when the agency is not open for business.

II. Discussion

A. Reconsideration of Agency Decisions

1. Sections 1.106 and 1.429—Petitions for Reconsideration

3. We have two procedural rules governing petitions for reconsideration of Commission orders. Section 1.429 addresses petitions for reconsideration of final orders issued in notice and comment rulemaking proceedings. Section 1.106 is a "catch-all" provision that governs petitions for reconsideration in all agency proceedings other than rulemaking proceedings, that is, all adjudications. The captions of the two rules, however, are generic and do not explicitly reflect the dichotomy between rulemaking and adjudication. We propose to change the captions of these two rules to reflect the categories of proceedings that each rule governs.

4. We also propose to amend these rules to allow the agency to resolve certain petitions for reconsideration more efficiently and expeditiously. The agency each year receives many petitions asking the full Commission to reconsider its decisions. Some of those petitions for reconsideration are procedurally defective or merely repeat arguments that the Commission previously has rejected. Such petitions

do not warrant consideration by the full Commission, and we therefore propose to amend §§ 1.429 and 1.106 to authorize the staff to dismiss or deny them on delegated authority. A non-exhaustive list of such cases might include, for example, petitions that:

- Omit information required by these rules to be included with a petition for reconsideration or otherwise fail to comply with procedural requirements set forth by the rules;
- Fail to identify any material error, omission, or reason warranting reconsideration or fail to state with particularity the respects in which petitioner believes the action taken should be changed;
- Rely on arguments that have been fully considered and rejected within the same proceeding;
- Relate to matters outside the scope of the order for which reconsideration has been requested;
- Rely on facts or arguments that could have been presented previously to the Commission or its staff but were not;
- Relate to an order for which reconsideration has been previously denied on similar grounds; or
- Are untimely.

We seek comment on these examples, as well as other categories of petitions for reconsideration that may not warrant action by the full Commission and might be appropriate for resolution by the staff on delegated authority. We propose to specify in our rules criteria governing petitions for reconsideration that would be subject to this approach. To that end, we propose draft rule revisions. (A petitioner whose reconsideration petition was dismissed or denied by the staff may file an application to have the full Commission review the staff's action. *See* 47 U.S.C. 155(c)(4); 47 CFR 1.115(a). In such circumstances, the filing of an application for review to the full Commission is a legal prerequisite for judicial review of the staff's action on reconsideration. *See* 47 U.S.C. 155(c)(7); 47 CFR 1.115(k).)

5. In addition, we propose to amend our reconsideration rules to make clear that paper copies of petitions for reconsideration may be submitted to the Commission's Secretary by mail, by commercial courier, or by hand. As discussed below, however, our goal is to increase the use of electronic filing of pleadings in the future. Thus, for those matters that are docketed on the Commission's Electronic Comment Filing System (ECFS), we strongly encourage persons to file any petitions for reconsideration of Commission action by electronic submission to ECFS. (To ensure that parties wishing to seek reconsideration have clear notice of our filing requirements, the proposed rule changes would emphasize that petitions for reconsideration submitted by electronic means other than ECFS (for example, by electronic mail) and petitions submitted directly to staff shall not be considered to have been properly filed absent a rule specifically permitting the alternative means of electronic filing for the particular submission at issue. Although a reconsideration petition submitted by electronic mail does not satisfy proper filing requirements absent a rule specifically permitting such a submission, it is still helpful and good practice to also send a copy of a reconsideration petition by electronic mail to any staff persons that the filer knows are involved with the proceeding or tend to be involved with the issues.) We seek comment on this proposal.

6. Certain licensing proceedings have different electronic filing systems and procedures that are distinct from those that apply to ECFS. Pleadings filed electronically through the Commission's Universal Licensing System (ULS), for example, including petitions for reconsideration, are subject to separate procedures that we do not propose to amend at this time.

7. Finally, we note that § 1.429 does not by its express terms apply to rules adopted without notice and comment. We seek comment on whether we should amend § 1.429 to make clear that this rule, rather than the "catch-all" reconsideration provision in § 1.106, applies to petitions for reconsideration of Commission orders adopting rules without notice and comment.

2. Section 1.108—Reconsideration on the Commission's Own Motion

8. Section 1.108 of the Commission's rules, captioned "Reconsideration on Commission's own motion," states: "The Commission may, on its own motion, set aside any action made or taken by it within 30 days from the date of public notice of such action, as that date is defined in § 1.4(b) of these rules."

As the caption suggests, the purpose of the rule is to give the Commission, when acting on its own motion, the full panoply of powers implied by the term "reconsider." As set forth in § 1.106(k)(1) of the Commission's rules, which concerns petitions for reconsideration in non-rulemaking proceedings, these powers include the power to reverse or modify an action, to remand a matter for further proceedings, or to initiate other further proceedings. One court, however, has construed the text of § 1.108 more narrowly, limiting its scope to the power to "set aside" an action in the literal sense. Under that court's interpretation, the scope of permissible reconsiderations excludes revising or modifying a rule. (*See Sprint Corp.* v. *FCC,* 315 F.3d 369, 374–75 (D.C. Cir. 2003) (holding that a Commission action "revising and modifying" a rule was not "set[ting] aside" the rule within the scope of § 1.108).) In order to clarify that section 1.108 does not limit the Commission's flexibility to revisit its decisions on its own motion within 30 days, we propose revising that rule to conform with the fuller definition of "reconsider" in § 1.106(k)(1). We seek comment on this proposal.

Docketing of Proceedings, Electronic Filing of Pleadings, and Electronic Notification

3. Expanded Use of Docketed Proceedings

9. The Commission assigns a docket number to many of its proceedings. These include notice and comment rulemaking proceedings and certain adjudicatory proceedings so designated by the Commission or the staff, such as adjudicatory proceedings that may be expected to attract large numbers of commenters. For any proceeding that is assigned a formal docket number, the Commission's Reference Information Center (a unit of the Consumer and Governmental Affairs Bureau) maintains the official administrative record in paper form, as well as the public files electronically on ECFS.

10. Many proceedings before the Commission, however, are not docketed. These non-docketed proceedings include routine matters that may not be expected to involve large numbers of commenters or parties. In such circumstances, the individual bureau or office handling the matter may assign the proceeding a unique file number or other form of identifier instead of a formal docket number. In some types of matters, no numerical identifier is assigned. The relevant bureau or office also maintains the public files of the proceeding and assists the Office of General Counsel in preparing the certified list of items in the administrative record for purposes of judicial review. Often the record may be in paper format only, and thus is not susceptible to electronic search and query. In such cases, interested persons may find it difficult to follow and participate in non-docketed proceedings.

11. Given the limitations and challenges noted above regarding certain non-docketed proceedings, we believe we can and should enhance

openness, transparency, and accuracy by utilizing the formal docket process for a larger portion of Commission proceedings. The docket number, often in conjunction with enhanced electronic filing through ECFS as discussed below, should facilitate public access and participation in our proceedings. We seek comment on this general approach. In particular, are there specific types of proceedings that currently are not docketed that would be candidates to migrate to the formal docket system? In contrast, are there particular proceedings that do not lend themselves to the docket system and should continue to be handled in a non-docketed manner by the relevant bureau or office? In general, we believe it is in the public interest to utilize the formal docket system whenever it is technically feasible. (Although we seek notice and comment here on the general approach of applying a formal docket process to additional Commission proceedings, we note that any subsequent determination that specific proceedings (or types of proceedings) should be docketed would not require the use of notice and comment procedures to the extent that those changes would involve matters of agency procedure and practice. *See* 5 U.S.C. 553(b)(A).) We recognize, however, that certain filings at the Commission by their nature may not be well suited for a docketed proceeding. Thus, while we may be able to reduce the number and variety of non-docketed proceedings significantly, we may not be able to establish a system in which all proceedings are docketed. Filings made through electronic means other than ECFS, for example, such as in the licensing context through ULS, may be accessible to the public without the need for assigning the proceeding a docket number. We seek comment on these proposals and issues.

4. Greater Use of Electronic Filing

12. In 1998, the Commission amended its rules to permit electronic filing via the Internet of all pleadings in informal notice and comment rulemaking proceedings (other than broadcast allotment proceedings), notice of inquiry proceedings, and petition for rulemaking proceedings (except broadcast allotment proceedings). (47 CFR 1.49(f); *see Electronic Filing of Documents in Rulemaking Proceedings,* Report and Order, 63 FR 24121, May 1, 1998; 13 FCC Rcd 11322 (1998).) The Commission also permits electronic filing through ECFS for certain adjudicatory proceedings on a case-by-case basis when so designated by the Commission or the staff. The Commission recently launched an enhanced and upgraded version of its ECFS that includes many new features and increased functionality. These new enhancements include, for example:

For submitting comments:

- User-friendly forms used to upload and query
- All forms are compliant with section 508 of the Rehabilitation Act and the system is certified for use with screen readers for those visually handicapped persons who require screen readers
- Ability to submit a filing in multiple proceedings
- Ability to attach multiple files to one submission
- User-friendly Graphic User Interface using JAVA to permit easier navigation
- Ability to review and modify filings before submitting them
- Ability to send and process comments from international filers and U.S. Territories

For performing queries:

- Check filing status by confirmation number
- Sort the result set
- Display results in a group of specified size
- Display results in tabular (condensed) or expanded (detailed) format
- Export search results to Excel or PDF
- As noted above, system is compliant with section 508 of the Rehabilitation Act and certified for use with screen readers
- Display search records with a link to the PDF version of the comment
- RSS Feed for updates
- View ECFS Daily Report (from a calendar) that lists the daily additions to ECFS

13. Given the more robust electronic filing capability provided by ECFS, we seek comment on the efficacy of utilizing electronic filing of pleadings through ECFS in a broader array of Commission proceedings. The Commission receives paper-only filings in certain non-rulemaking matters that currently do not utilize ECFS or some other electronic filing mechanism such as ULS. In addition, in certain types of proceedings, the Commission's rules provide for the electronic filing of applications, but not of responsive pleadings. When filings are made in paper format only and are not included in an electronic system (such as ECFS) that permits search and query functions, interested persons may find it difficult to follow and participate in our proceedings. Public access and transparency are not well served in those circumstances. In general, we believe that electronic filing through our enhanced ECFS or other electronic filing systems such as ULS better serves the public interest than a paper-only filing process. We thus seek to maximize electronic filing to the extent possible and minimize paper submissions at the Commission.

14. Accordingly, we propose an enhanced role for ECFS, and seek comment generally on issues raised by the increased use of electronic filing in Commission proceedings. In what types of non-rulemaking matters might it be appropriate to permit electronic filing of all pleadings through ECFS? Are there certain non-rulemaking proceedings that do not lend themselves to electronic filing of pleadings through ECFS? How should we amend § 1.49 of our rules (and any other rules the revision of which may be necessary) to augment the number of proceedings in which parties may file all pleadings through ECFS? Are there statutory implications for enhanced electronic filing that we should take into account, such as the Privacy Act? (5 U.S.C. 552a.) If we permit more filings under ECFS, what are the implications for parties wishing to submit materials under a request for confidentiality under § 0.459 of our rules?

15. As noted, the Commission has electronic filing mechanisms other than ECFS. These include, for example, a number of electronic filing systems for applications in the various broadcast and wireless services, including ULS (*see* para. 6, above). How should such systems be harmonized with ECFS, or should they continue to operate independently of ECFS? For example, should filers using those systems be excluded from also filing through the ECFS system to avoid confusion or unnecessary duplication? Should they be permitted to file in either, or both, in the same proceeding?

16. Finally, we seek comment on whether electronic filings through ECFS or our other electronic filing systems should be "machine readable." Specifically, should text filings be in a searchable format (*e.g.,* Microsoft Word ".doc" format or non-copy protected text-searchable ".pdf" format)? Should submissions containing non-text information, particularly spreadsheets of data, be submitted in the format in which they were created, such as Microsoft Excel, Microsoft Word, or Microsoft PowerPoint ("native format")? We seek comment on these questions, and any other issues parties care to raise in connection with an enhanced role for filing pleadings through ECFS. (Just as with docketed proceedings, we note that any subsequent determination that

parties should be permitted to file all pleadings in specific proceedings (or types of proceedings) through ECFS would not require the use of notice and comment procedures to the extent that those changes would involve matters of agency procedure and practice. *See* 5 U.S.C. 553(b)(A).)

5. Electronic Notification in Certain Proceedings

17. When required by statute or regulation, the Commission must serve copies of orders, pleadings, and other documents on parties to a proceeding. Typically in such circumstances, service is effectuated by mail. This process can be cumbersome and time consuming, for example when there are many parties to a particular proceeding, or when many documents in a particular docket must be served on the parties over the life of the proceeding. We seek to establish a more efficient approach. Accordingly, we propose to amend § 1.47 of the Commission's rules to allow the agency to serve parties to a proceeding in electronic form (*e.g.,* e-mail or an Internet-based notification system such as an RSS feed) following any change in the docket, to the extent the Commission is required to serve such parties. In a proceeding involving a large number of parties, we propose to satisfy the Commission's service obligation by issuing a public notice that identifies the documents required to be served and that explains how parties can obtain copies of the documents. If we adopt such an approach, what number of parties ordinarily should trigger this procedure? Are there other factors, in addition to the number of parties, that should be taken into account when deciding whether to use this procedure in a particular matter? We seek comment on these proposals and questions.

6. Management of Dockets

18. When no further action in a docketed proceeding is required or contemplated, that proceeding should be terminated. Termination closes the docket to any new filings. A terminated docket remains part of the Commission's official records, however, and its contents (pleadings, orders, *etc.*) continue to be accessible to the public.

19. The Commission currently has more than three thousand open dockets. Many of these dockets have seen little or no activity in years. In these circumstances, it is reasonable to assume that some open dockets may be candidates for termination. To address the current situation and to prevent its recurrence in the future, we propose to amend § 0.141 of our organizational rules to delegate authority to the Chief, Consumer and Governmental Affairs Bureau (CGB), through its component Reference Information Center, to review all open dockets periodically. When the CGB Chief identifies an open docket that appears to be a candidate for termination, the CGB Chief should consult with the relevant bureau or office with responsibility for that docket and, if the relevant bureau or office concurs, the staff should take action to close that docket. As noted above, candidates for termination might include, for example, dockets in which no further action is required or contemplated. In addition, is there some minimum period of dormancy (*i.e.,* when no pleadings have been filed) that might indicate a particular docket is a candidate for termination? What other criteria for termination might be appropriate? What procedures should we follow before terminating dockets? Should we first issue a public notice identifying particular dockets as candidates for termination before actually closing those dockets? We seek comment on these proposals and questions.

20. Another docket management issue involves the handling of dockets that are so large that they have become unwieldy. In such circumstances, often a bureau or office will open a new docket to remove one or more issues from a large docket, in an effort to avoid further expansion of the oversize docket. Oftentimes in practice, however, filings in the new docket will continue to include the old docket in the caption, essentially defeating the docket management function of having created the new docket. In an effort to rectify this situation, we propose to amend § 1.49 of our rules to specify that a filing should only be captioned with the docket number(s) particular to the issue(s) addressed in the filing. If the filing references superfluous or incorrect dockets, the Commission, through the Reference Information Center, would have the discretion to omit the filing from those dockets, and place it (only) in the correct docket(s). We seek comment on this proposal, including whether the benefits of erring on the side of over inclusiveness in dockets outweigh the administrative efficiencies and more narrowly tailored docket searchability that this proposal seeks to foster. We also solicit any other related suggestions to help the Commission manage its dockets and make them more user-friendly to, and searchable by, consumers and other users.

Miscellaneous Part 1 Rules

21. We also propose to amend certain other part 1 procedural rules to clarify and improve our practices. We propose these actions because our experience indicates that the current language of the rules has resulted in inconsistencies or uncertainties in the treatment of the matters in question.

7. Section 1.427—Effective Date of Rules

22. Although Commission rulemaking orders typically specify the effective date of adopted rules, the omission of such a statement can create confusion. Section 1.427(a) of the Commission's rules, captioned "Effective date of rules," currently states: "Any rule issued by the Commission will be made effective not less than 30 days from the time it is published in the **Federal Register** except as otherwise specified in paragraphs (b) and (c) of this section."

That rule contemplates that, in cases when the exceptions in subsections (b) and (c) do not apply, the order adopting the rule will contain a statement specifying that the rule becomes effective not less than 30 days after publication in the **Federal Register**. The rule does not provide any guidance, however, in the case when the contemplated statement of effective date is omitted. Although it is desirable to include a specific statement of effective date in all cases, we find that it also is prudent to prescribe a default rule in the event an order omits such a statement. A default rule should help avoid confusion and undue disruption concerning the effective date of the rule. We therefore propose amending § 1.427(a) of the rules to provide that in the event a Commission order adopting a rule does not specify an effective date and does not affirmatively defer the setting of an effective date (as in circumstances when the rule is awaiting Paperwork Reduction Act approval), the rule will become effective 30 days after publication in the **Federal Register** unless a later effective date is required by statute. We seek comment on this proposal.

8. Section 1.4—Computation of Time

23. *Deadlines for Commission Action Established by Rule.* Uncertainty can arise when the Commission's rules provide that required Commission action becomes due on a day when the agency is not open for business. A provision of the Commission's computation of time rule, § 1.4(j) (47 CFR 1.4(j)), currently addresses that situation when the due date for a party's filing falls on such a date, stating: "Unless otherwise provided (*e.g.* Sec.

76.1502(e) of this chapter) if, after making all the computations provided for in this section, the filing date falls on a holiday, the document shall be filed on the next business day. See paragraph (e)(1) of this section."

Section 1.4(j) does not address, however, the parallel situation in which specified Commission action, rather than a party's filing, is by regulation due on a day when the agency is not open for business. In those circumstances, we tentatively conclude that the reasonable expectation is that, when the due date for Commission action would otherwise fall on a holiday, as defined by § 1.4(e)(1) of the rules, the due date would be extended to the next business day. We seek comment on this proposal.

24. *Deadlines for Commission Action Established by Statute.* Section 1.4 by its terms "applies to computation of time for seeking both reconsideration and judicial review of Commission decisions." The rule permits parties to make such filings on the next business day when the filing deadline otherwise would fall on a holiday. Each of those deadlines is established by statute rather than by Commission rule. (Petitions for reconsideration must be filed within 30 days from the date public notice is given of the Commission order. 47 U.S.C. 405(a). A Notice of Appeal of certain Commission licensing decisions must be filed within 30 days from the date public notice is given of the Commission's order. 47 U.S.C. 402(b), (c). A Petition for Review of most Commission decisions must be filed within 60 days from the date public notice is given of the Commission's order. 47 U.S.C. 402(a); 28 U.S.C. 2344.) Through § 1.4(a), we thus have announced in advance our construction of certain statutory filing deadlines applicable to parties to make clear that parties may invoke the "next business day" procedure when the filing date would otherwise fall on a holiday.

25. We seek comment on whether we should follow the same approach to statutory deadlines applicable to the Commission. The Communications Act, in particular, establishes various deadlines for Commission action. May we, and if so should we, construe such deadlines to incorporate the "next business day" procedure, as we have for certain statutory deadlines applicable to parties? Specifically, if a statutory deadline for Commission action falls on a holiday (as defined in § 1.4(e)(1)), should we by rule announce our intention to construe the statute to require Commission action on the next business day? If so, what changes should we make to § 1.4 to effectuate this approach?

III. Procedural Matters

26. Ex Parte *Presentations.* The rulemaking this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required. Other requirements pertaining to oral and written presentations are set forth in § 1.1206(b) of the Commission's rules.

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

28. *Regulatory Flexibility Act.* Our action does not require notice and comment, and therefore falls outside of the Regulatory Flexibility Act of 1980, as amended. We nonetheless note that we anticipate that the rules we propose today will not have a significant economic impact on a substantial number of small entities. As described above, in proposing to revise certain of our part 1 Rules of Practice and Procedure and our part 0 Rules of Commission Organization, we mainly propose to change our own internal procedures and organization and do not impose substantive new responsibilities on regulated entities. There is no reason to believe that operation of the proposed rules would impose significant costs on parties to Commission proceedings. We will send a copy of this Notice of Proposed Rulemaking to the Chief Counsel of Advocacy of the SBA.

29. *Paperwork Reduction Act.* This proceeding may result in new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

IV. Ordering Clauses

Accordingly, It is ordered, pursuant to sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r), that *notice is hereby given* of the proposed regulatory changes described above, and that *comment is sought* on these proposals.

List of Subjects in 47 CFR Parts 0 and 1

Organization and functions (Government agencies), Reporting and recordkeeping requirements, Administrative practice and procedure, Government employees, Lawyers, Telecommunications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 0 and 1 to read as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

2. Section 0.141 is amended by revising paragraph (h) to read as follows:

§ 0.141 Functions of the Bureau.

* * * * *

(h) Serves as the official FCC records custodian for designated records, including intake processing, organization and file maintenance, reference services, and retirement and retrieval of records; manages the Electronic Comment Filing System and certifies records for adjudicatory and court proceedings. Maintains manual and computerized files that provide for the public inspection of public record materials concerning Broadcast Ownership, AM/FM/TV, TV translators, FM Translators, Cable TV, Wireless, Auction, Common Carrier Tariff matters, International space station files, earth station files, DBS files, and other miscellaneous international files. Also maintains for public inspection Time Brokerage and Affiliation Agreements, court citation files, and legislative histories concerning telecommunications dockets. Provides the public and Commission staff prompt access to manual and computerized records and filing systems. Periodically

reviews the status of open docketed proceedings and, in consultation with the relevant bureau or office with responsibility for a particular proceeding, closes any docket in which no further action is required or contemplated.

* * * * *

3. Section 0.445 is amended by revising paragraph (a) to read as follows:

§ 0.445 Publication, availability and use of opinions, orders, policy statements, interpretations, administrative manuals, and staff instructions.

(a) Adjudicatory opinions and orders of the Commission, or its staff acting on delegated authority, are mailed or delivered by electronic means to the parties, and as part of the record, are available for inspection in accordance with §§ 0.453 and 0.455.

* * * * *

PART 1—PRACTICE AND PROCEDURE

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

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

5. Section 1.4 is amended by revising paragraphs (a) and (j) to read as follows:

§ 1.4 Computation of time.

(a) *Purpose.* The purpose of this rule section is to detail the method for computing the amount of time within which persons or entities must act in response to deadlines established by the Commission. It also applies to computation of time for seeking both reconsideration and judicial review of Commission decisions. In addition, this rule section prescribes the method for computing the amount of time within which the Commission must act in response to deadlines established by a Commission rule or order.

* * * * *

(j) Unless otherwise provided (*e.g.* § 76.1502(e) of this chapter) if, after making all the computations provided for in this section, the filing date falls on a holiday, the document shall be filed on the next business day. *See* paragraph (e)(1) of this section. If a rule or order of the Commission specifies that the Commission must act by a certain date and that date falls on a holiday, the Commission action must be taken by the next business day.

* * * * *

6. Section 1.47 is amended by revising paragraph (a) to read as follows:

§ 1.47 Service of documents and proof of service.

(a) Where the Commission or any person is required by statute or by the provisions of this chapter to serve any document upon any person, service shall (in the absence of specific provisions in this chapter to the contrary) be made in accordance with the provisions of this section. Documents that are required to be served by the Commission may be served in electronic form. In proceedings involving a large number of parties, the Commission may satisfy its service obligation by issuing a public notice that identifies the documents required to be served and that explains how parties can obtain copies of the documents.

* * * * *

7. Section 1.49 is amended by adding a new paragraph (g) to read as follows:

§ 1.49 Specifications as to pleadings and documents.

* * * * *

(g) The caption of a pleading or other document filed in a docketed proceeding should reference only the docket number(s) particular to the issue(s) addressed in the document. When the document references superfluous or incorrect dockets, the Commission may omit the document from such dockets and place it (only) in the correct docket(s).

8. Section 1.106 is amended by revising the section heading, paragraphs (a)(1), (b)(2), (b)(3), (c), (d), (i), and (j), and by adding a new paragraph (p), to read as follows:

§ 1.106 Petitions for reconsideration in non-rulemaking proceedings.

(a)(1) Except as provided in paragraphs (b)(3) and (p) of this section, petitions requesting reconsideration of a final Commission action in non-rulemaking proceedings will be acted on by the Commission. Petitions requesting reconsideration of other final actions taken pursuant to delegated authority will be acted on by the designated authority or referred by such authority to the Commission. A petition for reconsideration of an order designating a case for hearing will be entertained if, and insofar as, the petition relates to an adverse ruling with respect to petitioner's participation in the proceeding. Petitions for reconsideration of other interlocutory actions will not be entertained. (For provisions governing reconsideration of Commission action in notice and comment rule making proceedings, see § 1.429. This § 1.106 does not govern reconsideration of such actions.)

* * * * *

(b) * * *

(2) Where the Commission has denied an application for review, a petition for reconsideration will be entertained only if one or more of the following circumstances are present:

(i) The petition relies on facts or arguments which relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters to the Commission; or

(ii) The petition relies on facts or arguments unknown to petitioner until after his last opportunity to present them to the Commission, and he could not through the exercise of ordinary diligence have learned of the facts or arguments in question prior to such opportunity.

(3) A petition for reconsideration of an order denying an application for review which fails to rely on new facts or changed circumstances may be dismissed by the staff as repetitious.

(c) In the case of any order other than an order denying an application for review, a petition for reconsideration which relies on facts or arguments not previously presented to the Commission or to the designated authority may be granted only under the following circumstances:

(1) The facts or arguments fall within one or more of the categories set forth in § 1.106(b)(2); or

(2) The Commission or the designated authority determines that consideration of the facts or arguments relied on is required in the public interest.

(d)(1) A petition for reconsideration shall state with particularity the respects in which petitioner believes the action taken by the Commission or the designated authority should be changed. The petition shall state specifically the form of relief sought and, subject to this requirement, may contain alternative requests.

(2) A petition for reconsideration of a decision that sets forth formal findings of fact and conclusions of law shall also cite the findings and/or conclusions which petitioner believes to be erroneous, and shall state with particularity the respects in which he believes such findings and/or conclusions should be changed. The petition may request that additional findings of fact and/or conclusions of law be made.

* * * * *

(i) Petitions for reconsideration, oppositions, and replies shall conform to the requirements of §§ 1.49, 1.51, and

1.52 and shall be submitted to the Secretary, Federal Communications Commission, Washington, DC, 20554, by mail, by commercial courier, by hand, or by electronic submission through the Commission's Electronic Comment Filing System or other electronic filing system (such as ULS). Petitions submitted by electronic mail and petitions submitted directly to staff without submission to the Secretary shall not be considered to have been properly filed. Parties filing in electronic form need only submit one copy.

(j) The Commission or designated authority may grant the petition for reconsideration in whole or in part or may deny or dismiss the petition. Its order will contain a concise statement of the reasons for the action taken. Where the petition for reconsideration relates to an instrument of authorization granted without hearing, the Commission or designated authority will take such action within 90 days after the petition is filed.

* * * * *

(p) Petitions for reconsideration of a Commission action that plainly do not warrant consideration by the Commission may be dismissed or denied by the Chief(s) of the relevant bureau(s) or office(s). Examples include, but are not limited to, petitions that: (1) Fail to identify any material error, omission, or reason warranting reconsideration;

(2) rely on facts or arguments which have not previously been presented to the Commission and which do not meet the requirements of paragraphs (b)(2), (b)(3), or (c) of this section;

(3) Rely on arguments that have been fully considered and rejected within the same proceeding;

(4) Fail to state with particularity the respects in which petitioner believes the action taken should be changed as required by paragraph (d) of this section;

(5) Relate to matters outside the scope of the order for which reconsideration is sought;

(6) Omit information required by these rules to be included with a petition for reconsideration, such as the affidavit required by § 1.106(e) (relating to electrical interference);

(7) Fail to comply with the procedural requirements set forth in paragraphs (f) and (i);

(8) Relate to an order for which reconsideration has been previously denied on similar grounds, except for petitions which could be granted under § 1.106(c); or

(9) Are untimely.

9. Section 1.108 is revised to read as follows:

§ 1.108 Reconsideration on Commission's own motion.

The Commission may, on its own motion, reconsider any action made or taken by it within 30 days from the date of public notice of such action, as that date is defined in § 1.4(b) of these rules. When acting on its own motion under this section, the Commission may take any action it could take in acting on a petition for reconsideration, as set forth in § 1.106(k) of this chapter.

10. Section 1.427 is amended by revising paragraph (a) to read as follows:

§ 1.427 Effective date of rules.

(a) Any rule issued by the Commission will be made effective not less than 30 days from the time it is published in the **Federal Register** except as otherwise specified in paragraphs (b) and (c) of this section. If the report and order adopting the rule does not specify the date on which the rule becomes effective, the effective date shall be 30 days after the date on which the rule is published in the **Federal Register,** unless the report and order affirmatively defers the setting of an effective date or a later effective date is required by statute.

* * * * *

11. Section 1.429 is amended by revising the section heading, paragraphs (b), (h), and (i), and by adding a new paragraph (l), to read as follows:

§ 1.429 Petition for reconsideration of final orders in rulemaking proceedings.

* * * * *

(b) A petition for reconsideration which relies on facts or arguments which have not previously been presented to the Commission will be granted only under the following circumstances:

(1) The facts or arguments relied on relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters to the Commission;

(2) The facts or arguments relied on were unknown to petitioner until after his last opportunity to present them to the Commission, and he could not through the exercise of ordinary diligence have learned of the facts or arguments in question prior to such opportunity; or

(3) The Commission determines that consideration of the facts or arguments relied on is required in the public interest.

* * * * *

(h) Petitions for reconsideration, oppositions and replies shall conform to the requirements of §§ 1.49 and 1.52, except that they need not be verified. Except as provided in § 1.420(e), an original and 11 copies shall be submitted to the Secretary, Federal Communications Commission, Washington, DC 20554, by mail, by commercial courier, by hand, or by electronic submission through the Commission's Electronic Comment Filing System. Petitions submitted by electronic mail and petitions submitted directly to staff without submission to the Secretary shall not be considered to have been properly filed. Parties filing in electronic form need only submit one copy.

(i) The Commission may grant the petition for reconsideration in whole or in part or may deny or dismiss the petition. Its order will contain a concise statement of the reasons for the action taken. Any order addressing a petition for reconsideration which modifies rules adopted by the original order is, to the extent of such modification, subject to reconsideration in the same manner as the original order. Except in such circumstance, a second petition for reconsideration may be dismissed by the staff as repetitious. In no event shall a ruling which denies a petition for reconsideration be considered a modification of the original order.

* * * * *

(l) Petitions for reconsideration of a Commission action that plainly do not warrant consideration by the Commission may be dismissed or denied by the Chief(s) of the relevant bureau(s) or office(s). Examples include, but are not limited to, petitions that:

(1) Fail to identify any material error, omission, or reason warranting reconsideration;

(2) Rely on facts or arguments which have not previously been presented to the Commission and which do not meet the requirements of paragraphs (b)(1) through (b)(3) of this section;

(3) Rely on arguments that have been fully considered and rejected within the same proceeding;

(4) Fail to state with particularity the respects in which petitioner believes the action taken should be changed as required by paragraph (c) of this section;

(5) Relate to matters outside the scope of the order for which reconsideration is sought;

(6) Omit information required by these rules to be included with a petition for reconsideration;

(7) Fail to comply with the procedural requirements set forth in paragraphs (d), (e), and (h) of this section;

(8) Relate to an order for which reconsideration has been previously

denied on similar grounds, except for petitions which could be granted under § 1.429(b); or

(9) Are untimely.

* * * * *

[FR Doc. 2010–6502 Filed 3–24–10; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[GC Docket No. 10–43; FCC 10–31]

Amendment of Certain of the Commission's Ex Parte Rules and Other Procedural Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, we begin a new proceeding to improve the transparency and effectiveness of the Commission's decisionmaking by reforming our *ex parte* rules. The *ex parte* process allows parties in most Commission proceedings to speak directly (or have written communications) with Commission staff and decisionmakers, providing a way to have an interactive dialogue that can root out areas of concern, address gaps in understanding, identify weaknesses in the record, discuss alternative approaches, and generally lead to more informed decisionmaking. Oral *ex parte* presentations are by their nature inaccessible to people who are not present at the meeting unless the presentations are publicly documented in some way. In this document, we seek comment on proposals to improve our *ex parte* and other procedural rules to make the Commission's decisionmaking processes more open, transparent, and effective.

DATES: Comments must be submitted by May 10, 2010, and reply comments must be submitted by June 8, 2010. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before May 24, 2010.

ADDRESSES: You may submit comments, identified by GC Docket No. 10–43, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

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

FOR FURTHER INFORMATION CONTACT: Julie Veach, Office of General Counsel, 202–418–1700. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an e-mail to *PRA@fcc.gov* or contact Leslie Smith, OMD, 202–418–0217.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking,* FCC 10–31, adopted on February 18, 2010, and released on February 22, 2010. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 1, 1998.

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/* or the Federal eRulemaking Portal: *http://www.regulations.gov.*
- ECFS filers must transmit one electronic copy of the comments for GC Docket No. 10–43. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail.
- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

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

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW–A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

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

Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, or via e-mail to *fcc@bcpiweb.com.* Documents in GC Docket No. 10–43 will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488–5300, facsimile (202) 488–5563, TTY (202) 488–5562, e-mail *fcc@bcpiweb.com.*

In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via e-mail to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via e-mail to *Nicholas_A._Fraser@omb.eop.gov* or via fax at 202–395–5167.

I. Introduction

1. In this NPRM, we begin a new proceeding to improve the transparency and effectiveness of the Commission's decisionmaking by reforming our *ex parte* rules. The *ex parte* process allows parties in most Commission proceedings to speak directly (or have written communications) with Commission staff and decisionmakers, providing a way to have an interactive dialogue that can root out areas of concern, address gaps

in understanding, identify weaknesses in the record, discuss alternative approaches, and generally lead to more informed decisionmaking. (The Administrative Procedure Act (APA) defines "*ex parte* communication" as "an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding covered by this subchapter." 5 U.S.C. 551(14). Consistent with that definition, the Commission's rules define an *ex parte* presentation as "[a]ny presentation which: (1) If written, is not served on the parties to the proceeding; or (2) If oral, is made without advance notice to the parties and without opportunity for them to be present," with "presentation" defined as "[a] communication directed to the merits or outcome of a proceeding, including any attachments to a written communication or documents shown in connection with an oral presentation directed to the merits or outcome of a proceeding." Written *ex parte* presentations include, for example, data, memoranda making legal arguments, materials shown to or given to Commission staff during *ex parte* meetings, and e-mail communications to Commission staff directed to the merits or outcome of a proceeding. Oral *ex parte* presentations include, for example, meetings or telephone or relay calls with Commission staff where parties present information or arguments directed to the outcome of a proceeding. The definition excludes certain types of communications, such as status inquiries that do not state or imply a view on the merits or outcome of the proceeding. 47 CFR 1.1202(a), (b).) Oral *ex parte* presentations are by their nature inaccessible to people who are not present at the meeting unless the presentations are publicly documented in some way. In permit-but-disclose proceedings, our *ex parte* rules require just this documentation. Years of experience, however, have revealed a number of areas where our *ex parte* rules could be improved. In this NPRM, we seek comment on proposals to improve our *ex parte* and other procedural rules to make the Commission's decisionmaking processes more open, transparent, and effective.

2. First, we propose reforms to our *ex parte* rules to require disclosure of every oral *ex parte* presentation in permit-but-disclose proceedings unless a specific exemption applies, and to require the filing of a notice that summarizes all data and arguments that were presented (although the filer may refer to prior written filings for data and arguments that the filer has presented before). Second, we propose to codify a preference for electronic filing of all notices of *ex parte* presentations, in machine-readable formats, and we propose to require electronic filing of notices of *ex parte* presentations made during the Sunshine period within four hours of the presentation. Third, we seek comment on whether to amend the rules exempting certain communications from the ban on *ex parte* presentations during the Sunshine period or in restricted proceedings, and whether to begin the Sunshine period prohibition on *ex parte* presentations at midnight following the release of the Sunshine notice. Fourth, we seek comment on whether to require disclosure of ownership or other information about the entity making an *ex parte* presentation or filing any pleading with the Commission so that readers will better understand the filer's interest in the proceeding. Finally, we propose minor changes to modernize or correct our current *ex parte* rules.

II. Background

3. The Commission's *ex parte* rules recognize three types of proceedings, and the rules apply differently to each type. In "restricted" proceedings, *ex parte* presentations are generally prohibited. By contrast, in "exempt" proceedings, there are no restrictions on *ex parte* presentations. In "permit-but-disclose" proceedings—the category we primarily address in this rulemaking—*ex parte* presentations are allowed so long as they are disclosed in the record of the proceeding. Copies of written presentations and summaries of oral presentations must (as explained more fully below) be filed in the record.

4. The filing of summaries of oral presentations (or *ex parte* notices) plays a key role in permit-but-disclose-proceedings, because interested parties frequently meet with the Commissioners and their staffs and the staffs of relevant Bureaus and Offices to present their views on the issues involved in pending permit-but-disclose proceedings. The current rule applicable to the oral presentations made in these meetings attempts to strike a balance between the need to give the public and other interested persons fair notice of the content of *ex parte* meetings and the desirability of not requiring parties to file unnecessary paperwork. Specifically, the current rule requires that if a person makes an oral *ex parte* presentation that presents data or arguments that are not already in that person's written filings in the proceeding, the person making the presentation must file a summary only of the new data or arguments. Indeed, if no new data or arguments are presented, no record of the oral *ex parte* presentation need be filed.

5. On October 28, 2009, the Commission hosted a staff workshop on the *ex parte* process at which senior Commission staff and outside experts discussed whether our current rules address the needs of the Commission and the public. Based on our own experience with the rules as well as the discussion at that workshop, we believe that two limitations in the current rules governing oral presentations in permit-but-disclose proceedings—lack of a filing documenting every oral *ex parte* presentation, and a lack of completeness about what was discussed in the meeting—reduce the transparency of the Commission's decisionmaking to the detriment of Commission staff, outside parties, and the general public. As mentioned above, if the oral presentation did not present any new data or arguments, there is currently no requirement to file any *ex parte* notice, so other parties may not even know that a meeting occurred. When filings are made, they often fail to give the reader sufficient information to know whether or not the *ex parte* discussion involved matters already on the record in the presenter's written filings, and if so, what matters. For example, many summaries of oral *ex parte* presentations state in one or two sentences that a party met with Commission staff members and discussed a particular proceeding in a manner consistent with the party's prior filings, without stating what the presentation was about, what data or arguments were presented, or whether particular data or arguments were characterized as especially important to the party's position. Although the number of complaints about alleged *ex parte* rule violations received by the Commission in permit-but-disclose proceedings is small (generally not more than one or two a year) and we are unable to estimate the number of violations that are not complained about, there is reason to believe that some *ex parte* notices fail to comply with the rule by failing to provide an adequate summary of new data or arguments discussed in *ex parte* meetings.

III. Discussion

A. Completeness and Accuracy of Memoranda Summarizing Oral Ex Parte Presentations

1. Filing Notices of All Oral *Ex Parte* Presentations, and Disclosing All Facts and Arguments Presented

6. Oral *ex parte* presentations provide a valuable opportunity for parties to converse with Commission staff, addressing concerns and questions in an interactive manner that is not possible in written filings. Oral presentations, however, must be adequately documented for the Commission to rely on them in its decisionmaking and for other parties to respond to them. (We take this opportunity to eliminate a possible misperception by noting that our current rules do not except oral *ex parte* presentations from the disclosure requirements when they are made at the request of staff. Oral *ex parte* presentations that are made at the request of staff must be disclosed to the same extent as oral *ex parte* presentations that are made at the request of the presenter. *See* 47 CFR 1.1206(b)(2).) When for any reason the record does not adequately reflect the contents of oral *ex parte* presentations, the public is deprived of a fair opportunity to respond to oral communications with decisionmakers, and the Commission may lack an adequate administrative record to the extent that the Commission wishes to rely on information presented during an oral *ex parte* presentation.

7. These same issues prompted the Commission, when it last comprehensively revised the *ex parte* rules, to propose that *ex parte* notices summarize the contents of all oral presentations in permit-but-disclose proceedings, regardless whether the presentation involved new information. Commenters were divided over the merits of this proposal, and the Commission ultimately rejected it. The Commission found that that it was not necessary to require additional filings that would merely reiterate submissions already filed. Instead, the Commission chose to rely on enforcement of the existing requirement that new data or arguments be summarized. The Commission reiterated its intent to enforce the existing requirement by issuing a public notice three years later reminding the public of its responsibilities to summarize new data and arguments in permit-but-disclose proceedings. The Commission has also emphasized these requirements on its Web site.

8. The Commission's and the public's need for information about the contents of oral *ex parte* presentations now causes us to propose to require more disclosure. To address the two main limitations in our current rules described above, we propose rules changes that (1) require the filing of an *ex parte* notice for every oral *ex parte* presentation, not just presentations that present data or arguments not already reflected in the presenter's written comments, memoranda or other filings; and (2) require that to the extent the presentation concerned data or arguments already reflected in the presenter's written filings in the record, the notice either summarizes the data or arguments presented or explicitly states that the data and arguments are already reflected in prior written filings and provides specific references (including page or paragraph numbers) to the presenter's prior filings containing the data and arguments presented. As under the current rule, the *ex parte* notice would have to contain a summary of any new data or arguments presented at the *ex parte* meeting. (We note that our current rules already state that any "documents shown in connection with an oral presentation" are defined as a written *ex parte* presentation and must be filed. 47 CFR 1.1202(a), (b)(1).) See § 1.1206 of the proposed rules section of this document for proposed revised language.

9. We believe that requiring that a memorandum be filed after every oral *ex parte* presentation would make the Commission's processes more transparent. We also believe that by requiring more disclosure of what was said in the presentation, by summarizing all facts and arguments or referring to prior written submissions, the new approach would also give readers a better understanding of the content of the presentation. It would do so, however, without imposing the significantly increased burden on those filing notices of having to summarize both old and new information. For that reason, we believe the proposed rule properly balances the need for fairness and transparency in Commission proceedings with avoiding unnecessary burdens on parties.

10. We seek comment on whether to adopt this proposal. Given that the proposed rule would generally require more detailed *ex parte* notices than the current rule does, we seek comment on whether parties should (except with respect to exempt presentations during the Sunshine period as discussed below) have two business days after making an oral *ex parte* presentation to make a filing rather than the current one business day.

11. The Commission remains committed to enforcing its rules. We seek comment on whether more aggressive enforcement of our existing rules would address some of the issues we have described above with regard to adequate disclosure of oral *ex parte* presentations. For instance, if the Commission imposed harsher sanctions against parties that fail to disclose *ex parte* presentations or that file inadequate summaries of oral *ex parte* presentations under our existing rules, would any of the rule changes we propose be unwarranted? We invite commenters to make specific enforcement-related proposals that would improve transparency of oral *ex parte* presentations in an efficient manner.

12. We do not propose to change the current treatment of status inquiries as described in § 1.1202(a). Section 1.1202(a) defines the term "presentation," and provides that "Excluded from this term are * * * inquiries relating solely to the status of a proceeding, including inquiries as to the approximate time that action in a proceeding may be taken. However, a status inquiry which states or implies a view as to the merits or outcome of the proceeding or a preference for a particular party, which states why timing is important to a particular party or indicates a view as to the date by which a proceeding should be resolved, or which otherwise is intended to address the merits or outcome or to influence the timing of a proceeding is a presentation."

If a status inquiry falls within the exclusion defined in § 1.1202, it is not an *ex parte* "presentation" and need not be disclosed. We seek comment on this proposal to retain the current treatment of status inquiries.

2. Other Approaches

13. Nothing in the APA requires that agencies give the public the opportunity to make oral presentations in rulemaking proceedings or in adjudications that are not otherwise required to be conducted on the record after a hearing. Not surprisingly, not all agencies have taken the same approach to oral *ex parte* communications. For example, in rulemaking proceedings at the Federal Election Commission, if a commissioner or member of a commissioner's staff receives an oral *ex parte* communication, the burden is on the commissioner or commissioner's staff to provide a written summary to the commission's Secretary for placement in the public record. When

the Federal Trade Commission conducts informal rulemakings, oral *ex parte* presentations to commissioners and their staffs occur infrequently, but summaries or transcripts of oral communications must be placed on the public record. Adjudications at the Federal Trade Commission are conducted as formal adjudications and *ex parte* presentations are not permitted. Other agencies, such as the Nuclear Regulatory Commission, favor taking in oral information through informal public meetings, rather than individual *ex parte* meetings. Indeed, this Commission has considered, but not adopted, measures as strong as a complete prohibition on *ex parte* contacts in informal rulemaking proceedings.

14. We seek comment on whether adopting some practices of other agencies regarding oral presentations would improve transparency in our own proceedings. We also invite alternative proposals that would increase compliance with our *ex parte* rules.

B. Preference for Electronic Filings

15. When the Commission last reassessed its *ex parte* rules thirteen years ago, parties filed documents in Commission proceedings mostly on paper. Now, more often than not, parties file documents in Commission proceedings electronically. Many if not most of our permit-but-disclose proceedings are now docketed on the Commission's Electronic Comment Filing System or other electronic filing systems, where the records are available electronically, and the Commission has made it possible for parties to file many types of documents electronically. Moreover, we are taking steps to expand this capability. Indeed, filing *ex parte* notices is now very often done electronically, allowing the Commission staff, parties, and the general public to have easy and timely access to those documents online, and reducing the time that Commission staff must spend gathering record materials as they work to resolve Commission proceedings. Reducing the burdens of following Commission proceedings also supports our goals of transparency and public participation.

16. We propose to amend our *ex parte* rules generally to require that written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations in docketed proceedings be filed electronically on a Commission electronic comment filing system. We believe that most parties already do so; this rule would for the most part codify current practice. In those cases where a docket number has not been assigned to a proceeding or the Commission has not provided a method for filing memoranda electronically, we propose that the person required to submit the memorandum shall file on paper an original and one copy with the Secretary's office. We also seek comment on whether these filings should be made in machine-readable format (*e.g.,* Microsoft Word ".doc" format or non-copy protected text-searchable ".pdf" format for text filings, and "native formats" for non-text filings, such as spreadsheets in Microsoft Excel ".xml" format). We recognize that in some cases, electronic filing is not possible without undue hardship because the person making the oral *ex parte* presentation does not have access to a computer or the Internet or because the filing contains confidential business or financial information. We therefore propose to codify an exception. See § 1.206(b) of the proposed rules section of this document for proposed revised language.

17. We seek comment on these proposals. In particular, we seek comment on whether there are types of proceedings for which these procedures would be impractical, such that we should require paper filing or allow other methods for submitting *ex parte* notices.

18. We note a particular issue with regard to the filing of *ex parte* notices during the Sunshine period. The current *ex parte* rules prohibit most presentations, whether *ex parte* or not, during the Sunshine period, which begins when a proposed order is placed on a Sunshine notice and ends when the text of a decision is released or the draft returned to the staff. Typically, the Sunshine notice is released seven days before an agenda meeting. The Sunshine period prohibition is intended to provide decisionmakers "a 'period of repose' during which they can be assured that they will be free from last minute interruptions and other external pressures, thereby promoting an atmosphere of calm deliberation." The prohibition on most presentations during the Sunshine period is also meant to give the Commissioners and staff time to examine a record that is largely fixed, rather than continuing to analyze new data and arguments. We believe that a period of repose from both oral and written presentations before a Commission meeting continues to make sense in most circumstances and seek comment on this conclusion. We note in this regard that the Commission has and can in the future waive the prohibition where the public interest so requires.

19. In those cases where an oral *ex parte* presentation is permitted to be made during the Sunshine period but must still be disclosed, it is very important that the notice summarizing that presentation be available quickly to Commissioners, Commission staff, and interested outside parties. During the Sunshine period, the Commission is in the final stages of considering how to resolve a proceeding. When, as permitted under the current rules, notices of oral *ex parte* presentations are filed by the end of the following business day, as many as two working days may have elapsed between the conclusion of the oral presentation and the filing of the summary. An even longer delay in having the notice appear in the electronic docket may result if the summary is not filed electronically. At the end of a proceeding, when decision-makers are making final judgments concerning the matter, this can be a great deal of time and the delay in filing may preclude sufficient consideration of the contents of the filing by Commissioners and Commission staff. In addition, if the rules were to be amended so that other parties were allowed to make responsive presentations during the Sunshine period, it would be necessary for them to see the summaries of other parties' presentations so that they can respond to the data or arguments that were presented.

20. Because of the problem of timing, we propose that *ex parte* notices summarizing oral *ex parte* presentations that were made during the Sunshine period must be filed electronically within four hours of the completion of the presentation, so that they are available quickly to all. We recognize that in some cases, this may be difficult for parties to accomplish because of sequential meetings, travel plans, or very occasionally a lack of access to a computer and the Internet. We believe that it is vitally important to the Commission's deliberations that as many *ex parte* notices as possible are filed electronically within four hours. Almost all proposed orders that are placed on a Sunshine notice are in proceedings for which electronic filing is available. If, however, the Commission were to place a proposal on the Sunshine notice for which § 1.1203 applied but for which no electronic filing mechanism was available, we propose that memoranda summarizing oral *ex parte* presentations that must be filed during the Sunshine period be sent by electronic mail (or, if electronic mail is not available, by facsimile) to all Commission staff who attended the presentation and to all parties who have provided such contact information

unless the Sunshine notice provides otherwise. We seek comment on these proposals.

21. Furthermore, to make it simpler for staff to determine whether the *ex parte* presentation was permissible and whether the notice was timely filed, we propose to require that the notice say in the first sentence why the *ex parte* presentation was permissible, and also on what day and at what time the oral presentation took place. See § 1.1206(b) of the proposed rules section of this document for proposed revised language.

22. We seek comment on these proposals. In particular, we seek comment on the four-hour filing period, and whether that will in most cases provide a sufficient filing opportunity. If not, we ask parties to propose a reasonable time for filing that takes into consideration the harm that delays in receiving the information can have on the Commission's resolution of its proceedings. We also seek comment on whether this requirement would be impracticable for certain filers, and whether and how we could craft an exception that would still make notices of these presentations available to the Commissioners, staff, and public quickly.

C. The Sunshine Period Prohibition and Exceptions

23. We also seek comment on whether the current exceptions to the Sunshine period restrictions ought to be modified. Exceptions to the Sunshine period prohibition include presentations "requested by (or made with the advance approval of) the Commission or staff for the clarification or adduction of evidence, or for resolution of issues, including possible settlement." (We note that this exception allows *ex parte* presentations to be made when they would otherwise be prohibited, but it does *not* relieve the presenter from the burden of disclosing the contents of oral *ex parte* presentations. Even if an oral presentation is at the request of staff, disclosure requirements still apply. *See* 47 CFR 1.1204(a)(10)(iv).) We believe that information gathered through such permitted presentations can be important to the Commission's ability to reach the best possible decisions on proposed orders subject to a Sunshine period restriction. Nonetheless, the exception could be abused to shore up the record on one side of an argument without allowing responses on the other side. Indeed, during the workshop, some participants suggested that as a matter of fairness to all parties, the Sunshine period ought to be "all or nothing"—that is, it should either be a period of strict repose or it should be eliminated to allow all presentations. Accordingly, we seek comment on whether this exception ought to be narrowed to prohibit an outside party from soliciting a request from staff for an *ex parte* presentation "for the clarification or adduction of evidence, or for the resolution of issues." We also seek comment on whether it is practical and consistent with having a "period of repose" to allow replies to presentations made pursuant to a Sunshine period exception. We seek comment on other possible resolutions.

24. While the settlement exception in § 1.1204(a)(10) of the rules serves an important function, we also seek comment on whether it is susceptible to misuse apart from its impact during the Sunshine period. For example, we seek comment on whether reliance on the provision of the rule exempting from disclosure "information relating to how a proceeding should or could be settled, as opposed to new information regarding the merits," sometimes has been applied in an overly broad manner to effectively permit the undisclosed discussion of the merits of proceedings. To the extent this may be so, we seek comment on how the rule should be amended to eliminate this problem, without constraining appropriate uses of the staff's ability to facilitate settlements in adjudicatory matters, such as formal complaint proceedings under section 208 of the Act and pole attachment complaint proceedings under section 224 of the Act.

25. We note one other complexity with regard to our Sunshine procedures. Under our current rules, the prohibition on *ex parte* communications begins with the release of the Sunshine notice. While Sunshine notices are almost always released seven days in advance of an Agenda Meeting, the time of day at which a Sunshine notice is released varies. This variability makes it difficult for outside parties to know up until what time they may make oral *ex parte* presentations or file written *ex parte* presentations. It also makes it difficult for Commission staff to analyze later whether a presentation that was made on the day a Sunshine notice was released was made before or after the notice was released. For these reasons, we seek comment whether we should modify § 1.1203(b) to make the prohibition on *ex parte* communications effective at midnight after a Sunshine notice is released, unless otherwise specified in the notice. See § 1.1203(b) of the proposed rules section of this document for proposed revised language. We seek comment on this proposal. In particular, we seek comment on whether there are other ways to create a brighter line to mark the beginning of the period of repose that would not also shorten the period of repose.

26. We take this opportunity to remind parties that the Commission and its staff have discretion to modify the applicable *ex parte* rules in a particular proceeding by "order, letter, or public notice." For example, staff may indicate that a particular licensing proceeding will be changed from a restricted proceeding to a permit-but-disclose proceeding because it raises policy issues on which broader public participation would benefit the public interest. Staff may choose to continue to require service of process in such a proceeding, and will so indicate in the document that changes the status of the proceeding.

D. Disclosure Statements

27. In many cases, a party filing a pleading or other document with the Commission or making an *ex parte* presentation may represent the interests of other entities, or the party's interest in the proceeding may otherwise be unclear. We are interested in whether the ability of both the Commission and the public to evaluate the positions taken in Commission proceedings would be improved if parties provided more information about themselves and their interests in the proceedings. We therefore seek comment on the desirability of requiring filers to submit a disclosure statement in connection with their filings in all Commission proceedings.

28. There are several possible models for a disclosure requirement. One possible model is Supreme Court Rule 29.6. That rule requires any nongovernmental corporation filing a document with the Court to include a corporate disclosure statement identifying the parent corporations and listing any publicly held company that owns ten percent or more of the corporation's stock. In addition, Supreme Court Rule 37.6 requires that amicus briefs (except those filed by certain government entities) "indicate whether counsel for a party authored the brief in whole or in part and whether such counsel or a party made a monetary contribution intended to fund the preparation or submission of the brief, and shall identify every person other than the amicus curiae, its members, or its counsel, who made such a monetary contribution." Another possible model is Rule 26.1 of the Circuit Rules for the U.S. Court of Appeals for the DC Circuit. That rule applies more broadly than the Supreme

Court Rule, to any corporation, association, joint venture, partnership, syndicate or other similar entity appearing as a party or amicus curiae in any proceeding. Like Supreme Court Rule 29.6, it requires these entities to file a disclosure statement that identifies all parent companies and any publicly held company that has a ten percent or greater interest in the entity, but it goes on to define "parent companies" to include all companies controlling the specified entity directly, or indirectly through intermediaries. The statement must also identify the represented entity's general nature and purpose, insofar as relevant to the litigation. If the entity is an unincorporated entity whose members have no ownership interests, the disclosure statement must include the names of any members who have issued shares or debt securities to the public. This last requirement does not apply to trade associations or professional associations, defining a trade association as a continuing association of numerous organizations or individuals operated for the purpose of promoting the general commercial, professional, legislative, or other interests of the membership. A third possible model is the Lobbying Disclosure Act (LDA). The LDA requires the disclosure of the registrant's clients and any organizations that contribute more than $5,000 in a quarterly period to the registrant's lobbying activities.

29. We seek comment on these alternatives and, more generally, whether to require disclosure of this type in filings with the Commission. We ask parties to comment on whether one of the models described would suit this objective, or whether a combination of these models or a different model would be better. We recognize that greater disclosure might discourage some entities from participating in our proceedings. We seek comment on whether a disclosure rule could be fashioned in a way that would avoid discouraging participation in our proceedings while still providing more information about the relevant interests of the parties. We also seek comment on what, if any, disclosure requirements would be appropriate for individuals. We also ask parties to identify whether there are types of entities or proceedings to which any disclosure requirement should not apply.

30. We recognize that the Commission currently requires some regulatees to submit certain ownership information. For example, commercial broadcaster licensees and entities that hold attributable interests in such licensees must file FCC Form 323 biennially, and also after various triggering events. Filers of Form 323 identify their ownership interest as well as any other entities or individuals that have an attributable ownership interest. The filed forms are available to the public online through the Consolidated Database System (CDBS). Similarly, licensees and license applicants for wireless services subject to competitive bidding must have an updated FCC Form 602 on file upon certain triggering events, which include applying for or renewing a license and requesting authority to transfer control of a license. Among other things, the filer must disclose the real party or parties in interest, including the identity and relationship of persons or entities directly or indirectly controlling the applicant. Filers also must disclose information regarding persons or entities that directly or indirectly hold a ten percent or greater ownership interest or general partnership interest in the filer. Information from Form 602 is available to the public online through the Universal Licensing System (ULS).

31. We seek comment on whether this ownership information appropriately could be referenced by a party in its *ex parte* filing or pleading to satisfy part or all of any disclosure requirements that the Commission may adopt. Are there other publicly available sources of similar information that appropriately could be referenced or attached in a similar way? We invite any other suggestions on how to improve the Commission's and the public's understanding of a party's interest in a proceeding.

E. Other Issues

32. *Sanctions and Enforcement.* Even with perfect compliance with our existing rules, we tentatively believe our proposals would improve transparency by, for example, requiring disclosure of every *ex parte* presentation in permit-but-disclose proceedings, and requiring parties to identify or refer specifically to all data and arguments that they present. Above, however, we seek comment on whether stricter enforcement of our existing rules would lessen or eliminate the need for any of the changes to our rules that we propose in this Notice. In doing so, we do not suggest that the rule changes suggested here are a substitute for enforcement of the *ex parte* rules. Regardless of what amendments are adopted in this proceeding or when, we intend to place greater emphasis on enforcement against impermissible *ex parte* contacts. We will not hesitate to impose appropriate sanctions, including monetary forfeitures, for violations. In this regard, we seek comment on what types of sanctions should be deemed appropriate with respect to different types of *ex parte* violations, and, in particular, what sanctions would be appropriate for the filing of inadequate *ex parte* notices. We specifically seek comment on the extent to which prejudice to other parties should be a principal factor in determining the appropriate sanction and any other factors we should consider in determining what sanctions are appropriate. We also seek comment on whether all *ex parte* sanctions, including admonitions, should be publicly announced.

33. *New Media.* The Commission is beginning to make use of new media technologies in some of its proceedings. For example, the Commission has three new Web sites that are dedicated to particular issues—broadband.gov for the proceeding to create a National Broadband Plan, OpenInternet.gov for the proceeding to preserve and promote the open Internet, and reboot.fcc.gov to solicit and discuss ideas on general Commission reform. These Web sites and the Commission's more familiar Web site provide information about the Commission and its proceedings, but they also allow the public to comment on various issues through new media such as blogs, Facebook, and IdeaScale. Some of the issues on which the public provides input are the subjects of permit-but-disclose proceedings and are therefore subject to our *ex parte* rules. The Commission to date has modified its *ex parte* rules to accommodate the use of new media on a case-by-case basis pursuant to § 1.1200(a). We expect to continue to do so as we and the public gain experience with the use of new media.

34. We do not, at this time, propose specific rules regarding the *ex parte* implications of new media, but we welcome any comments on the issue. In particular, we are interested in comments as to whether and how we should account for any differences in access to these new media by different segments of the public, such as those whose homes or communities are not served by broadband or those who have not subscribed to broadband.

35. *Minor Changes.* We seek comment on a number of additional proposed changes:

36. First, we seek comment on eliminating § 1.1202(d)(6) as it appears to be an exact duplicate of § 1.1202(d)(5).

37. Second, we seek comment on amending § 1.1204(a)(6) regarding communications between the Department of Justice or Federal Trade Commission and this Commission to reflect that the matter be related to

"communications" generally rather than "telecommunications," and to delete the word "competition." We believe that referring to "communications" rather than "telecommunications," which is a defined term under the Act, would reflect more accurately the types of discussions that are intended to be exempt under this rule, and would avoid any appearance that we intend to limit the scope of the exemption to communications regarding "telecommunications" as defined in the Act, as opposed to, for example, cable services. We also propose to delete the word "competition" to reflect that communications between our agencies may touch on matters such as consumer protection or law enforcement, which may not be directly linked to competition. We seek comment on these proposals.

38. Third, we propose to add the Pooling Administrator and the TRS Numbering Administrator to the list of entities in § 1.1204(a)(12) with which communications are exempt from the *ex parte* rules. This would be consistent with the exemptions for other numbering administrators such as the North American Numbering Plan Administrator and the Number Portability Administrator. The Commission established the framework for selecting the national Pooling Administrator in 2000, and created the TRS Numbering Administrator in 2008; these proposed changes would bring the *ex parte* rules up to date with regard to these entities. We seek comment on these proposals.

39. Fourth, we propose to delete from the list of permit-but-disclose proceedings in § 1.1206(a) Bell Operating Company applications under section 271 of the Act. All Bell Operating Companies have applied for and received authority under section 271 in all their relevant states. If for some reason in the future a Bell Operating Company were to reapply for authority under section 271, the staff could designate the proceeding as a permit-but-disclose proceeding under § 1.1200(a). We seek comment on this proposal.

40. Fifth, we propose to codify the practice whereby staff may at its discretion file an *ex parte* summary of a meeting attended by many parties, thereby relieving the parties of the obligation to file individually. This would be at the staff's option. We seek comment on this proposal.

41. Sixth, we propose a change to our rules regarding oral presentations in restricted proceedings. Under our current rules, *ex parte* presentations are generally not permitted in restricted proceedings. An oral presentation is not *ex parte,* however, if it is made with advance notice to all the parties to the proceeding with an opportunity for them to be present. If a party makes a permissible oral presentation, our rules currently do not require the party to file a summary in the record of the proceeding. We propose to require a summary to the same extent as in permit-but-disclose proceedings. We believe that having a summary in the record of the proceeding would facilitate review of the record by Commission staff as well as the parties to the proceeding. A draft of a revised § 1.1203(b) is provided. We seek comment on the proposal.

42. Seventh, we propose to make it more plain that our rules already require that documents that are shown to or given to Commission staff during *ex parte* meetings are themselves written *ex parte* presentations and must be filed. A draft of a proposed clarification to § 1.1206(b)(1) is provided. We seek comment on the proposed language.

43. Eighth, we propose to clarify a point regarding inter-governmental *ex parte* presentations that are permitted during the Sunshine period. Current § 1.1203(a)(4) permits presentations from members of Congress, their staff, or other agencies or branches of the Federal government in exempt and permit-but-disclose proceedings during the Sunshine period, when most presentations are not permitted. The rule also states that significant presentations must be placed in the record consistent with § 1.1206(b). Section 1.1204(b), however, provides that *ex parte* presentations in exempt proceedings need not be disclosed at all. To remedy this inconsistency, we propose to clarify in § 1.1203(a)(4) that the requirement to disclose presentations that are made during the Sunshine period only applies to presentations made in permit-but-disclose proceedings. We seek comment on this proposal.

44. Ninth, we propose to clarify that the Sunshine period prohibition does not affect parties' obligation to file a written *ex parte* presentation or memorandum summarizing an oral *ex parte* presentation for presentations that are made on the last day before the Sunshine period begins, even though new *ex parte* presentations are not permitted unless they are made pursuant to an exception to the prohibition on *ex parte* presentations. A proposed clarification to § 1.1203 is provided.

45. Finally, we propose in general to reorganize § 1.1206 to make it clearer and easier to understand, and to make various conforming edits. A draft of a proposed improved § 1.1206 is provided. We seek comment on these proposed changes.

46. *Other.* We invite commenters to propose any other modifications to the *ex parte* rules that would enhance the transparency, fairness, and efficiency of the decisionmaking process.

IV. Procedural Matters

47. Ex Parte *Presentations.* The rulemaking this NPRM initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required. Other requirements pertaining to oral and written presentations are set forth in § 1.1206(b) of the Commission's rules.

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

49. *Regulatory Flexibility Act.* Our action does not require notice and comment, and therefore falls outside of the Regulatory Flexibility Act of 1980, as amended. We will send a copy of this Notice of Proposed Rulemaking to the Chief Counsel of Advocacy of the SBA.

50. *Paperwork Reduction Act.* This proceeding may result in new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

V. Ordering Clauses

51. *Accordingly, it is ordered,* pursuant to sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r), that *notice is hereby given* of the proposed regulatory changes described

above, and that *comment is sought* on these proposals.

52. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Government employees, Lawyers, Penalties, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 1 to read as follows:

PART 1—PRACTICE AND PROCEDURE

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

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

§ 1.202 [Amended]

2. Section 1.1202 is amended by removing paragraph (d)(6).

3. Section 1.1203 is amended by revising paragraphs (a)(4) and (b) introductory text, and adding a new paragraph (c) to read as follows:

§ 1.1203 Sunshine period prohibition.

(a) * * *

(4) The presentation is made by a member of Congress or his or her staff, or by other agencies or branches of the Federal government or their staffs in a proceeding exempt under § 1.1204 or subject to permit-but-disclose requirements under § 1.1206. If this presentation is of substantial significance and clearly intended to affect the ultimate decision, and is made in a permit-but-disclose proceeding, the presentation (or, if oral, a summary of the presentation) must be placed in the record of the proceedings by Commission staff or by the presenter in accordance with the procedures set forth in § 1.1206(b).

(b) The prohibition set forth in paragraph (a) of this section applies beginning at midnight following the release of a public notice that a matter has been placed on the Sunshine Agenda until the Commission:

* * * * *

(c) Nothing in this section prevents a party from submitting a written *ex parte* presentation or a memorandum summarizing an oral *ex parte* presentation on the first business day of the Sunshine period prohibition to the extent that § 1.1206 or § 1.1208 requires submission of such a presentation or memorandum to reflect an *ex parte* presentation that was made on the last day before the beginning of the Sunshine period.

4. Section 1.1204 is amended by revising paragraphs (a)(6), (a)(12)(iii), and (a)(12)(iv), and adding new paragraphs (a)(12)(v) and (a)(12)(vi) to read as follows:

§ 1.1204 Exempt ex parte presentations and proceedings.

(a) * * *

(6) The presentation is to or from the United States Department of Justice or Federal Trade Commission and involves a communications matter in a proceeding which has not been designated for hearing and in which the relevant agency is not a party or commenter (in an informal rulemaking or Joint board proceeding) provided that, any new factual information obtained through such a presentation that is relied on by the Commission in its decisionmaking process will be disclosed by the Commission no later than at the time of the release of the Commission's decision;

* * * * *

(12) * * *

(iii) The Universal Service Administrative Company relating to the administration of universal service support mechanisms pursuant to 47 U.S.C. 254;

(iv) The Number Portability Administrator relating to the administration of local number portability pursuant to 47 U.S.C. 251(b)(2) and (e); provided that the relevant administrator has not filed comments or otherwise participated as a party in the proceeding;

(v) The TRS Numbering Administrator relating to the administration of the TRS numbering directory pursuant to 47 U.S.C. 225 and 47 U.S.C. 251(e); or

(vi) The Pooling Administrator relating to the administration of thousands-block number pooling pursuant to 47 U.S.C. 251(e).

* * * * *

5. Section 1.1206 is amended by revising paragraph (a)(12), removing paragraph (a)(13), redesignating paragraph (a)(14) as (a)(13) (Note 3 to paragraph (a) remains unchanged), and revising paragraph (b) to read as follows:

§ 1.1206 Permit-but-disclose proceedings.

(a) * * *

(12) A modification request filed pursuant to § 64.1001 of this chapter; and

* * * * *

(b) The following disclosure requirements apply to *ex parte* presentations in permit-but-disclose proceedings:

(1) *Written presentations.* A person who makes a written *ex parte* presentation subject to this section, including giving or showing a document to Commission staff, shall, no later than the next business day after the presentation, submit two copies of the presentation to the Commission's Secretary under separate cover for inclusion in the public record. The presentation (and cover letter) shall clearly identify the proceeding to which it relates, including the docket number, if any, shall indicate that an original and one copy have been submitted to the Secretary or that one copy has been filed electronically, and must be labeled as an *ex parte* presentation. If the presentation relates to more than one proceeding, two copies (or an original and one copy, or one copy if filed electronically) shall be filed for each proceeding.

(2) *Oral presentations.*

(i) A person who makes an oral *ex parte* presentation subject to this section shall submit a memorandum that summarizes all data presented and arguments made during the oral *ex parte* presentation. If the oral *ex parte* presentation consisted in whole or in part of the presentation of data or arguments already reflected in that person's written comments, memoranda or other filings in the proceeding, the person who made such presentation may provide citations to such data or arguments in that person's prior comments, memoranda, or other filings in lieu of summarizing them in the memorandum. Memoranda must contain a summary of the substance of the *ex parte* presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. The memorandum (and cover letter, if any) shall clearly identify the proceeding to which it relates, including the docket number, if any, shall indicate that an original and one copy have been submitted to the Secretary or that one copy has been filed electronically, and must be labeled as an *ex parte* presentation. If the presentation relates to more than one proceeding, two copies of the memorandum (or an original and one copy, or one copy if filed electronically) shall be filed for each proceeding.

Note 1 to paragraph (b): Where, for example, presentations occur in the form of discussion at a widely attended meeting, preparation of a memorandum as specified in the rule might be cumbersome. Under these circumstances, the rule may be satisfied by submitting a transcript or recording of the discussion as an alternative to a memorandum.

(ii) The memorandum required to be submitted to the Secretary under this subpart must be submitted no later than the next business day after the presentation. In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, the memorandum shall, when feasible, be filed through the electronic comment filing system available for that proceeding. In other proceedings or if filing through the electronic comment filing system would present an undue hardship, an original and one copy must be submitted to the Secretary and also sent on paper or via electronic mail to the Commissioners and Commission employees involved in the presentation.

(iii) If the memorandum summarizing an oral presentation required to be submitted under this subpart results from an oral *ex parte* presentation that is made pursuant to an exception to the Sunshine period prohibition, the memorandum shall be submitted through the Commission's electronic comment filing system, and shall be submitted within four hours of the presentation to which it relates. The memorandum shall also identify plainly on the first page the specific exception in § 1.1203(a) on which the presenter relies. The memorandum shall also state the date and time at which the oral *ex parte* presentation was made.

(3) *Electronic Filing and Native Formats.* In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, shall, when feasible, be filed electronically, and shall be filed in native formats (i.e., .doc, .xml, .ppt, searchable .pdf). In cases where a filer believes that the document to be filed should be withheld from public inspection, the filer should file electronically a request that the information not be made routinely available for public inspection pursuant to § 0.459, and a copy of the document with such confidential information redacted. The filer should submit the original unredacted document to the Secretary as directed in § 0.459.

(4) Notwithstanding paragraphs (b)(1) and (b)(2) of this section, in permit-but-disclose proceedings presentations made by Members of Congress or their staffs or by an agency or branch of the Federal Government or its staff shall be treated as *ex parte* presentations only if the presentations are of substantial significance and clearly intended to affect the ultimate decision. The Commission staff shall prepare a written summary of any such oral presentation and place it in the record in accordance with paragraph (b)(2) of this section and place any such written presentation in the record in accordance with paragraph (b)(1) of this section.

(5) *Notice of* ex parte *presentations.* The Commission's Secretary or, in the case of non-docketed proceedings, the relevant Bureau or Office shall place in the public file or record of the proceeding written *ex parte* presentations and memoranda reflecting oral *ex parte* presentations. The Secretary shall issue a public notice listing any written *ex parte* presentations or written summaries of oral *ex parte* presentations received by his or her office relating to any permit-but-disclose proceeding. Such public notices should generally be released at least twice per week.

Note 2 to paragraph (b): Interested persons should be aware that some *ex parte* filings, for example, those not filed in accordance with the requirements of this paragraph (b), might not be placed on the referenced public notice. All *ex parte* presentations and memoranda filed under this section will be available for public inspection in the public file or record of the proceeding, and parties wishing to ensure awareness of all filings should review the public file or record.

Note 3 to paragraph (b): As a matter of convenience, the Secretary may also list on the referenced public notices materials, even if not *ex parte* presentations, that are filed after the close of the reply comment period or, if the matter is on reconsideration, the reconsideration reply comment period.

6. Section 1.1208 is revised to read as follows:

§ 1.1208 Restricted proceedings.

Unless otherwise provided by the Commission or its staff pursuant to § 1.1200(a) of this section, *ex parte* presentations (other than *ex parte* presentations exempt under § 1.1204(a)) to or from Commission decision-making personnel are prohibited in all proceedings not listed as exempt in § 1.1204(b) or permit-but-disclose in § 1.1206(a) until the proceeding is no longer subject to administrative reconsideration or review or judicial review. Proceedings in which *ex parte* presentations are prohibited, referred to as "restricted" proceedings, include, but are not limited to, all proceedings that have been designated for hearing, proceedings involving amendments to the broadcast table of allotments, applications for authority under Title III of the Communications Act, and all waiver proceedings (except for those directly associated with tariff filings). A party making an oral presentation in a restricted proceeding, on a non-*ex parte* basis, must file a summary of the presentation in the record of the proceeding using procedures consistent with those specified in § 1.1206.

Note 1 to § 1.1208: In a restricted proceeding involving only one "party," as defined in § 1.1202(d), the party and the Commission may freely make presentations to each other because there is no other party to be served with a right to have an opportunity to be present. See § 1.1202(b). Therefore, to determine whether presentations are permissible in a restricted proceeding without service or notice and an opportunity for other parties to be present the definition of "party" should be consulted.

Examples: After the filing of an uncontested application or waiver request, the applicant or other filer would be the sole party to the proceeding. The filer would have no other party to serve with or give notice of any presentations to the Commission, and such presentations would therefore not be "ex parte presentations" as defined by § 1.1202(b) and would not be prohibited. On the other hand, in the example given, because the filer is a party, a third person who wished to make a presentation to the Commission concerning the application or waiver request would have to serve or notice the filer. Further, once the proceeding involved additional "parties" as defined by § 1.1202(d) (e.g. an opponent of the filer who served the opposition on the filer), the filer and other parties would have to serve or notice all other parties.

Note 2 to § 1.1208: Consistent with § 1.1200(a), the Commission or its staff may determine that a restricted proceeding not designated for hearing involves primarily issues of broadly applicable policy rather than the rights and responsibilities of specific parties and specify that the proceeding will be conducted in accordance with the provisions of § 1.1206 governing permit-but-disclose proceedings.

[FR Doc. 2010–6494 Filed 3–24–10; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 75, No. 57
Thursday, March 25, 2010

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AFRICAN DEVELOPMENT FOUNDATION

African Development Foundation, Board of Directors Meeting

Time: Tuesday, April 13, 2010, 9:30 a.m. to 1 p.m.

Place: African Development Foundation, Conference Room, 1400 I Street, NW., Suite 1000, Washington, DC 20005.

Dates: Tuesday, April 13, 2010.

Status:

1. Open session, Tuesday, April 13, 2010, 9:30 a.m. to 12 p.m.; and

2. Closed session, Tuesday, April 13, 2010, 12 p.m. to 1 p.m.

Due to security requirements and limited seating, all individuals wishing to attend the open session of the meeting must notify Michele M. Rivard at (202) 673–3916 or *mrivard@usadf.gov* of your request to attend by 5 p.m. on Thursday, April 8, 2010.

Lloyd O. Pierson,

President & CEO, USADF.

[FR Doc. 2010–6659 Filed 3–24–10; 8:45 am]

BILLING CODE 6117–01–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2010–0009]

Codex Alimentarius Commission: Meeting of the Codex Committee on Food Labeling

AGENCY: Office of Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of Food Safety, United States Department of Agriculture (USDA), and the Food and Drug Administration (FDA), are sponsoring a public meeting on April 7, 2010. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States positions that will be discussed at the 38th Session of the Codex Committee on Food Labeling (CCFL) of the Codex Alimentarius Commission (Codex), which will be held in Quebec City, Canada, May 3–7, 2010. The Office of Food Safety and the FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 38th Session of the CCFL and to address items on the agenda.

DATES: The public meeting is scheduled for April 7, 2010, from 2 to 5 p.m.

ADDRESSES: The public meeting will be held at the USDA, Jamie L. Whitten Building, Room 107–A, 1400 Independence Avenue, SW., Washington, DC 20250. Documents related to the 38th Session of the CCFL will be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/current.asp.*

The U.S. Delegate to the 38th Session of the CCFL, Barbara Schneeman, and the FDA invite interested U.S. parties to submit their comments electronically to the following e-mail address: *Ritu.Nalubola@fda.hhs.gov.*

Registration:

If you would like to participate in the public meeting by telephone conference, please use the following call-in number and passcode: Call-in Number: 1–866–692–3158. Passcode: 5986642.

For Further Information About the 38th Session of the CCFL Contact: Doreen Chen-Moulec, U.S. Codex Office, Food Safety and Inspection Service (FSIS), Room 4861, 1400 Independence Avenue, SW., Washington, DC 20250, Phone: (202) 205–7760, Fax: (202) 720–3157, E-mail: *Doreen.Chen-Moulec@fsis.usda.gov.*

For Further Information About the Public Meeting Contact: Doreen Chen-Moulec, U.S. Codex Office, FSIS, Room 4861, 1400 Independence Avenue, SW., Washington, DC 20250, Phone: (202) 205–7760, Fax: (202) 720–3157, E-mail: *Doreen.Chen-Moulec@fsis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure that fair practices are used in trade.

The CCFL is responsible for drafting provisions on labeling applicable to all foods; considering, amending if necessary, and endorsing draft specific provisions on labeling of draft standards, codes of practice and guidelines prepared by other Codex Committees; studying specific labeling problems assigned to it by the Codex Commission; and studying problems associated with the advertisement of food with particular reference to claims and misleading descriptions.

The Committee is chaired by Canada.

Issues To Be Discussed at the Public Meeting

The following items on the agenda for the 38th Session of the CCFL will be discussed during the public meeting:

- Matters Referred to the Committee by other Codex Bodies
- Consideration of Labeling Provisions in Draft Codex Standards
- Implementation of the WHO Global Strategy on Diet, Physical Activity, and Health

(a) Proposed Draft Revision of the Guidelines on Nutrition Labeling Concerning the List of Nutrients that are always Declared on a Voluntary or Mandatory Basis

(b) Discussion Paper on Issues Related to Mandatory Nutrition Labeling

(c) Proposed Draft Criteria and Principles for Legibility and Readability of Nutrition Labels

(d) Discussion Paper on Labeling Provisions Dealing with the Food Ingredients Identified in the Global Strategy on Diet, Physical Activity, and Health

- Guidelines for the Production, Processing, Labeling and Marketing of Organically Produced Foods:

Annex 1: Inclusion of Ethylene for Other Products

- Labeling of Foods and Food Ingredients Obtained through Certain Techniques of Genetic Modification/Genetic Engineering

(a) Draft Amendment to the General Standard for the Labeling of Prepackaged Foods: Definitions

- Discussion Paper on the Need to Amend the General Standard for the

Labeling of Prepackaged Foods in line with the International Organization of Legal Metrology (OIML) Recommendations Regarding the Declaration of the Quantity of Product in Prepackages.

Each issue listed will be fully described in documents distributed, or to be distributed, by the Codex Secretariat prior to the CCFL meeting. Members of the public may access these documents on the World Wide Web (see **ADDRESSES**).

Public Meeting

At the April 7, 2010, public meeting, draft U.S. positions on the agenda items will be described and discussed and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to the U.S. Delegate, Barbara Schneeman (See **ADDRESSES**), for the 38th Session of the CCFL. Written comments should state that they relate to activities of the 38th Session of the CCFL.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it online through the FSIS Web page located at *http://www.fsis.usda.gov/Regulations_&_Policies/2010_Notices_Index/index.asp.* FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/.* Options range from recalls to export information, to regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done in Washington, DC, March 17, 2010.

Karen Stuck,

U.S. Manager for Codex Alimentarius.

[FR Doc. 2010–6559 Filed 3–24–10; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Camp Tatiyee Land Exchange on the Lakeside Ranger District of the Apache-Sitgreaves National Forests; Santa Catalina, Nogales, Safford, and Douglas Ranger Districts of the Coronado National Forest; Bradshaw Ranger District of the Prescott National Forest; Cave Creek, Tonto Basin, and Pleasant Valley Ranger Districts of the Tonto National Forest

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4370d, as implemented by the Council on Environmental Quality Regulations, 40 CFR Part 1500–1508, the USDA Forest Service, Apache-Sitgreaves National Forests (ASNFs) (lead forest), will prepare an Environmental Impact Statement (EIS) on a proposal to transfer one 344.06 acre parcel of Federal land on the ASNFs into private ownership, and 16 parcels totaling 1,719.32 acres of private land into Federal ownership. The land proposed for the transfer to the Forest Service includes one 110.57 acre parcel to the ASNFs; nine parcels totaling 1153.31 acres to the Coronado National Forest (CNF); one 11.15 parcel to the Prescott National Forest (PNF); and five parcels totaling 444.42 acres to the Tonto National Forest (TNF). The proposed land exchange would be between the Lawyer's Title Company, which holds the private land in trust for the benefit of the Lions Foundation of Arizona (LFA) and BC2 LLC, and the Apache-Sitgreaves, Coronado, Prescott, and Tonto National Forests in Central and Southern Arizona.

The EIS will analyze the proposed change of the Federal lands (344.06 ac.) for the non-Federal lands (1,719.32 ac.). The Federal and non-Federal lands proposed for exchange are located in Navajo, Cochise, Pima, Santa Cruz, Graham, Maricopa, Gila, and Yavapai Counties, Arizona. The affected Forest Service units are the Lakeside Ranger District of the ASNFs; Santa Catalina, Nogales, Safford, and Douglas Ranger Districts of the CNF; Bradshaw Ranger District of the PNF; Cave Creek, Tonto Basin, and the Pleasant Valley Ranger Districts in TNF. Implementation of the proposed exchange is scheduled for December 2011. The Forest Service invites written comments and suggestions on the scope of the environmental analysis for the EIS from Federal, State, and local agencies, tribes, and other individuals or organizations that may be interested in or affected by the proposed action. The ASNFs Forest Supervisor also invites the public to participate in the environmental analysis and decision-making process for the proposed exchange of lands.

DATES: Comments concerning the scope of the analysis are requested by May 14, 2010. The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in early 2011; the final EIS is scheduled for completion in late 2011.

ADDRESSES: You may request to be placed on the project mailing list or you may direct questions, written comments and suggestions to Edward W. Collins, District Ranger, Lakeside Ranger District, Apache-Sitgreaves National Forests, c/o TEC Inc., 514 Via de la Valle, Ste. 308, Solana Beach, CA 92075, or by facsimile to (858) 509–3158. The office hours for those submitting hand-delivered comments are 8–4:30 local time Monday through Friday, excluding holidays. Hand-delivery comments should be brought to the Lakeside Ranger District, Apache-Sitgreaves National Forests, 2022 W. White Mountain Boulevard, Lakeside, AZ 85929.

Provide Oral Comments to: The Apache-Sitgreaves National Forests, Lakeside Ranger District during normal business hours via telephone (928) 368–2100, or in person, or at an official Agency function (*e.g.,* a public meeting) that is designed to solicit public comments.

Provide Electronic Comments to: *comments-southwestern-apache-sitgreaves@fs.fed.us.* Electronic comments must be submitted in a format such as an e-mail message, plain text (.txt), rich text format (.rtf) and Microsoft Word (.doc). The subject line must contain the name of the project for which you are submitting comments (*i.e.* Camp Tatiyee Land Exchange). Comments must have an identifiable name attached or verification of identity will be required. A scanned signature may serve as verification on electronic comments. It is important that reviewers provide their comments at such times and in such a way that they are useful

to the Agency's preparation of the EIS. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. The submission of timely and specific comments can affect a reviewer's ability to participate in subsequent administrative or judicial review.

Comments received in response to this solicitation, including names and addresses of those who comment, will become part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the respondent with standing to participate in subsequent administrative or judicial review.

FOR FURTHER INFORMATION CONTACT: Edward Collins, District Ranger, Lakeside Ranger District, Apache-Sitgreaves National Forests, 2022 W. White Mountain Blvd., Lakeside, AZ 85929, (928) 368–2100. Individuals who use telecommunication devices for the deaf (TDD) may call either the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, or the Lakeside Ranger District TTY (928) 368–5088 between the hours of 8 a.m. and 4 p.m., Pacific Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The proposal to exchange lands in the Apache-Sitgreaves, Coronado, Tonto, and Prescott National Forests responds to the Forest Service's need for consolidation of Federal land ownership patterns and the need to enhance management of the public's natural resources. There is a need to acquire lands that (1) protect habitat for several threatened, endangered, and sensitive species; (2) facilitate public access to Federal lands; (3) improve wetlands, floodplains, and riparian areas; (4) decrease the complexity of maintaining property boundaries; and (5) improve the efficiency of resource management by focusing the Forests' funding and staff on consolidated ownerships.

The non-Federal lands would provide additional federally managed habitat for wildlife and plant species. The consolidation of public land ownership would result in a reduction in mixed ownership patterns. The elimination of numerous miles of common Federal/private landline boundaries and controlling land survey corners would contribute to increased management efficiency and a reduction in future administrative costs. Forest Service administration of over a dozen special use permits (SUPs) on the Federal land would no longer be necessary. Possible future residential/subdivision development on the private inholdings would be eliminated. On a Forest Service-wide basis, there could be a net gain of 1,375.26 acres of land that would be available for public outdoor recreation uses.

Proposed Action

The Forest Service is proposing a land-for-land exchange that would result in federal acquisition of approximately 1,719.32 acres of non-Federal lands in the Coronado National Forest, Prescott National Forest, Apache-Sitgreaves National Forest, and Tonto National Forest. Approximately 344.06 acres of Federal land would be conveyed within the incorporated town of Pinetop-Lakeside, Arizona from the ASNFs.

The conveyance of the Federal land would increase the number of acres of private land within the Town of Pinetop-Lakeside by 344.06 acres while eliminating one of the last isolated Forest Service parcels in the town. The land would continue to be used for existing youth organization camps with the remainder being available for future development within the town of Pinetop-Lakeside in accordance with local zoning ordinances.

The proposed exchange would be with LFA and BC2 LLC, through Lawyers Title Company, as Trustee, under authority of the General Exchange Act of March 20, 1922; the Federal Land Policy and Management Act of 1976 (FLPMA), as amended; and the Federal Land Exchange Facilitation Act of August 20, 1988.

The proposed exchange of lands would not require an amendment to the ASNFs Land and Resource Management Plan. Pursuant to the regulations for land exchanges (36 CFR 254.3(f)): "Lands acquired by exchange that are located within areas having an administrative designation established through the land management planning process shall automatically become part of the area within which they are located, without further action by the Forest Service, and shall be managed in accordance with the laws, rules, and regulations, and land and resource management plan applicable to such area."

Background

In 1997, the LFA, through its representative, Page Land & Cattle Co., proposed to exchange private land for the National Forest System (Federal) land where their Camp Tatiyee youth organization camp which is authorized by a SUP. LFA proceeded to acquire non-Federal properties in the PNF, ASNFs and TNF and presented the ASNFs with their proposal for the Camp Tatiyee Land Exchange on June 13, 2000. A September 5, 2003 preliminary value analysis concluded that the estimated value of the Federal land exceeded that of the offered non-Federal lands and that LFA would need to acquire additional properties for the proposed exchange to proceed. On December 1, 2005, Page Land & Cattle Co. submitted a revised proposal, which included a number of additional parcels previously associated with the Cote Land Exchange on the CNF.

A Value Consultation for the proposed land exchange was completed on May 9, 2007, and is documented in a Feasibility Analysis that was approved by the Acting Director of Lands & Minerals, USDA Forest Service, Southwestern Region, on August 9, 2007. The Value Consultation associated with the feasibility analysis concluded that the proposed land exchange is in compliance with the equal value requirement of the FLPMA, as amended. An Agreement to Initiate the Camp Tatiyee Land Exchange was executed by the Acting Director of Lands & Minerals, USDA Forest Service, Southwestern Region, on October 1, 2007. As required by 36 CFR 254.8, the Notice of Exchange Proposal (NOEP) was published in the Arizona Daily Star, Tucson Citizen, the Tribune, Payson Roundup, Courier, and White Mountain Independent for four consecutive weeks from November 5, 2007 to November 27, 2007.

Possible Alternatives

A full range of alternatives to the proposed action, including a no-action alternative, will be considered during the environmental analysis and will be discussed in the EIS. The no-action alternative represents no change from the current pattern of land ownership, and it serves as the baseline for the comparison among the action alternatives.

Responsible Official

The Responsible Official is the Regional Forester, Southwestern Region. The Responsible Official will review all issues, alternatives, and environmental consequences associated with the analysis; consider all public comments and responses; and comply with all policies, regulations, and laws in making a decision regarding the proposed exchange of lands documented in the final EIS for the Camp Tatiyee Land Exchange. The

Responsible Official will document his decision and rationale for the decision in a Record of Decision. The Responsible Official's decision will be subject to public notice, review, comment, and appeal under the Forest Service Regulations for Notice, Comment, and Appeal Procedures for National Forest System projects and Activities at 36 CFR part 215 and 36 CFR part 251.

Nature of Decision To Be Made

The Forest Service will determine if the lands to be exchanged are desirable, in the public interest, and suitable for inclusion in the National Forest System. Land exchanges are discretionary, voluntary real estate transactions between the Federal and non-Federal parties.

The exchange can only be completed after the authorized officer determines that the exchanges meets the requirements at 36 CFR 254.3(b): (2)(i) The resource values and the public objectives served by non-Federal lands and interests to be acquired are equal to or exceed the resource values and public objectives served by the Federal lands to be disposed, and (ii) the intended use of the disposed Federal lands will not substantially conflict with established management objectives on adjacent Federal lands, including Indian Trust Lands. Lands will be exchanged on a value for value basis, based on fair market value appraisals. The appraisal is prepared in accordance with the Uniform Appraisal Standards of Professional Appraisal Practice and the Uniform Appraisal Standards for Federal Land Acquisition. The appraisal prepared for the land exchange is reviewed by a qualified review appraiser to ensure that it is fair and complies with the appropriate standards. Under the FLPMA, all exchanges must be equal in value. Forest Service regulations at 36 CFR 254.3(c) require that exchanges must be of equal value or equalized pursuant to 36 CFR 254.12 by cash payment after making all reasonable efforts to equalize values by adding or deleting lands. If lands proposed for exchange are not equal in value, either party may make them equal by cash payment not to exceed 25 percent of the Federal land value. A value consultation by the Regional Appraiser on May 9, 2007 concluded that it appears that the exchange is structured with flexibility to comply with the equal value requirement of the FLMPA, as amended.

Preliminary Issues

An initial scoping letter dated October 30, 2007, was mailed to adjacent landowners, potentially interested parties, and affected special use permit holders who it was believed would have an interest in or be affected by the project. The letter explained that interested parties should access the ASNFs internet web site where they would find a description of the lands being considered for exchange, the legal descriptions of the parcels, and maps displaying their locations. Comments were requested by December 15, 2007. Based upon the comments received, and litigation stemming from other land exchange activities, the Forest Service determined that an environmental assessment would be insufficient for the NEPA process and an EIS would be required.

Preliminary issues identified include concerns over the loss of opportunity for the continued use of the National Forest land for wildlife viewing and recreation by residents living in the area adjacent to the Federal parcel and concerns regarding the effect of possible future development of the Federal parcel once conveyed into private ownership.

Scoping Process

This notice of intent formally initiates the scoping process for this EIS, which guides the development of the EIS. Scoping will include notice in the ASNF's Quarterly Schedule of Proposed Actions; distribution of letters to individuals, organizations, and agencies who have previously indicated interest in the Camp Tatiyee Land Exchange; communication with Tribal interests; and news releases in the Arizona Republic (the regional newspaper of record), and the newspaper of record each Forest's newspaper of record: The Arizona Daily Star (Coronado), Daily Courier (Prescott), Arizona Capitol Times (Tonto), and the White Mountain Independent (ASNFs) and to other papers serving areas affected by this proposal: Tucson Citizen, Sierra Vista Herald, Nogales International, Eastern Arizona Courier, East Valley Tribune and Payson Roundup. Any news releases will also be distributed to other local newspapers that serve areas affected by this proposal. A public meeting is scheduled for Tuesday, April 13, 2010, from 3 p.m. to 7 p.m. at the at the mess hall of Camp Tatiyee, 5283 White Mountain Boulevard, Lakeside, Arizona 85929. This meeting and any future public meetings will have a notice of time and location provided to newspapers that serve areas affected by this proposal. The scoping process will include identifying any key issues and previously unknown potential environmental effects of the proposed action.

The comment period for the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**. At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, tribes, and members of the public for their review and comment. It is important that those interested in the management of the National Forests participate at that time.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record of this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, anonymous comments do not provide standing to appeal any decision made under 36 CFR Part 215 and 36 CFR Part 251. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address.

It is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the NEPA at 40 CFR 1503.3 in addressing these points.

Dated: March 19, 2010.

Chris Knopp,

Forest Supervisor.

[FR Doc. 2010–6589 Filed 3–24–10; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Wrangell-Petersburg Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Corrected notice of meeting dates.

SUMMARY: This document contains correction to the notice of meeting which was published in the **Federal Register** of March 8, 2010 (75FR10460). The meeting which was scheduled for March 25, 26, and 27, 2010 has been rescheduled and the new meeting dates are April 8, 9, and 10, 2010. The Wrangell-Petersburg Resource Advisory Committee will meet in Petersburg, Alaska. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose of the meeting is to update Committee members on changes in the legislation, elect officers, and develop operating guidelines and project evaluation criteria. The committee may also make project funding recommendations at this meeting.

DATES: The meeting will be held Thursday, April 8th from 1–5 p.m., on Friday, April 9th from 8 a.m.–5 p.m., and on Saturday, April 10th from 9 a.m. to 12 p.m.

ADDRESSES: The meeting will be held at the Petersburg Ranger District office at 12 North Nordic Drive in Petersburg, Alaska. Written comments should be sent to Christopher Savage, Petersburg District Ranger, P.O. Box 1328, Petersburg, Alaska 99833. Comments may also be sent via email to *csavage@fs.fed.us,* or via facsimile to 907–772–5995.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Petersburg Ranger District office at 12 North Nordic Drive during regular office hours (Monday through Friday 8 a.m.–4:30 p.m.).

FOR FURTHER INFORMATION CONTACT: Christopher Savage, Petersburg District Ranger, P.O. Box 1328, Petersburg, Alaska, 99833, phone (907) 772–3871, e-mail *csavage@fs.fed,us,* or Robert Dalrymple, Wrangell District Ranger, P.O. Box 51, Wrangell, AK 99929, phone (907) 874–2323, e-mail *rdalrymple@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: Updating the committee on the Secure Rural Schools and Community Self Determination Act (Pub. L. 110–343); election of officers; development of committee operating guidelines and criteria for evaluation of projects proposed for funding. The committee may review project proposals and make recommendations for funding if time allows. Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by April 5th will have the opportunity to address the Committee at those sessions.

Dated: March 17, 2010.

Patricia O'Connor,

Acting Forest Supervisor.

[FR Doc. 2010–6459 Filed 3–24–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–834]

Purified Carboxymethylcellulose from Mexico: Extension of Time Limits for Preliminary Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: March 25, 2010.

FOR FURTHER INFORMATION CONTACT: Mark Flessner or Robert James, AD/CVD Enforcement Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–6312 and (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 11, 2005, the Department of Commerce (the Department) issued the antidumping order for purified carboxymethylcellulose (CMC). *See Notice of Antidumping Duty Orders: Purified Carboxymethylcellulose from Finland, Mexico, the Netherlands and Sweden*, 70 FR 39734 (July 11, 2005).

On August 25, 2009, the Department published a notice of initiation of an antidumping duty administrative review for, *inter alia*, CMC from Mexico for the July 1, 2008, through June 30, 2009, period of review (POR). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 74 FR 42873 (August 25, 2009). The preliminary results for this administrative review were due no later than April 2, 2010.

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines as a result of the closure of the Federal Government due to snowstorms occurring in February of 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. *See* Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010 (Tolling Memorandum). The revised deadline for the preliminary determination of this administrative review is now April 9, 2010.

Extension of Time Limits for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Tariff Act), requires the Department to complete the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Tariff Act allows the Department to extend the 245 day time period for the preliminary results to 365 days.

The Department has determined it is not practicable to complete this review within the statutory time limit because of significant issues that require additional time to evaluate. These include complicated issues involving Amtex's (the respondent) use of multiple currencies in both markets and certain movement expenses. In accordance with the Tolling Memorandum, an additional seven days must be factored into the deadline. Accordingly, the Department is extending the time limit for completion of the preliminary results of this administrative review until no later than Tuesday, June 8, 2010, which is 60 days from the April 9, 2010, deadline and less than 365 days after the last day of the anniversary month of the order for which this review was requested. The final results continue to be due 120 days

after publication of the preliminary results.

This notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Tariff Act.

Dated: March 18, 2010.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–6639 Filed 3–24–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–837]

Polyethylene Terephthalate Film, Sheet and Strip from Taiwan: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: March 25, 2010.

FOR FURTHER INFORMATION CONTACT: Martha Douthit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5050.

SUPPLEMENTARY INFORMATION:

Background

On August 25, 2009, the Department of Commerce (the Department) published the initiation of the administrative review of the antidumping duty order on polyethylene terephthalate film, sheet and strip from Taiwan for the period July 1, 2008 through June 30, 2009. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 74 FR 42873 (August 25, 2009). This review covers two producers and/or exporters of the subject merchandise to the United States: Nan Ya Plastics Corporation, Ltd. (Nan Ya), and Shinkong Synthetic Fibers Corporation (Shinkong).

Extension of Time Limit for the Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and section 351.213(h)(1) of the Department's regulations require the Department to issue the preliminary results of a review within 245 days after the last day of the anniversary month of the order or suspension agreement for which the administrative review was requested, and final results of the review within 120 days after the date on which the notice of the preliminary results is published in the **Federal Register**. However, if the Department determines that it is not practicable to complete the review within the aforementioned specified time limits, section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations allow the Department to extend the 245–day period to 365 days and to extend the 120–day period to 180 days.

The last time that the Department conducted an administrative review of the antidumping order on polyethylene terephthalate film, sheet and strip from Taiwan was for the period of December 21, 2001 through June 30, 2003. The Department requires additional time to evaluate the questionnaire responses from Nan Ya and Shinkong in order to conduct a thorough analysis of all information on the record, including possible cost and affiliation issues. Therefore, the Department finds that it is not practicable to complete the preliminary results of this review within the original time limit and is extending the deadline for completion of the preliminary results of this administrative review by 120 days.

Additionally, on February 12, 2010, the Department issued a memorandum revising all case deadlines. As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5 through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. *See* Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010. Therefore, we are hereby extending the deadline for the preliminary results by a total of 127 days; the revised deadline for the preliminary results of this administrative review is now August 7, 2010. However, August 7, 2010 falls on a Saturday, and it is the Department's long–standing practice to issue a determination the next business day when the statutory deadline falls on a weekend, federal holiday, or any other day when the Department is closed. *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005). Accordingly, the deadline for the completion of these preliminary results is now no later than August 9, 2010.

This notice is issued and published pursuant to sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: March 18, 2010.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–6637 Filed 3–24–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–909]

Certain Steel Nails From the People's Republic of China: Extension of Time Limit for the Final Results of the First New Shipper Review

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

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

FOR FURTHER INFORMATION CONTACT: Tim Lord, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–7425.

Background

On January 15, 2010 the Department of Commerce ("Department") published the preliminary results of the new shipper review for Qingdao Denarius Manufacture Co., Ltd for the period January 23, 2008, through January 31, 2009. *See Certain Steel Nails from the People's Republic of China: Notice of Preliminary Results of the New Shipper Review,* 75 FR 2483 (January 15, 2010) ("*Preliminary Results*"). On February 16, 2010, the Department issued a memorandum that tolled the deadlines for all Import Administration cases by seven calendar days due to the recent Federal Government closure. *See* Memorandum for the Record from Ronald Lorentzen, DAS for Import Administration, Tolling of Administrative Deadlines as a Result of the Government Closure During the Recent Snowstorm, dated February 12, 2010. As a result, the final results are currently due on April 15, 2010.

Extension of Time Limits for the Final Results

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended ("Act"), and 19

CFR 351.214(i)(1) require the Department to issue the preliminary results of a new shipper review within 180 days after the date on which the new shipper review was initiated and the final results of a review within 90 days after the date on which the preliminary results were issued. The Department may, however, extend the deadline for completion of the final results of a new shipper review to 150 days if it determines that the case is extraordinarily complicated. *See* section 751(a)(2)(B)(iv) of the Act, and 19 CFR 351.214(i)(2).

The Department has determined that the review is extraordinarily complicated because of issues related to surrogate valuation and other calculation-related issues. In addition, based on the Department's extension of the briefing schedule and the additional information that must be analyzed, the final results of this new shipper review cannot be completed within the statutory time limit of 90 days. Accordingly, the Department is extending the time limit for the completion of the final results by 60 days until June 14, 2010, in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2).

This notice is issued and published in accordance with section 751(a)(1) of the Act and 19 CFR 351.214(i)(2).

Dated: March 19, 2010.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–6640 Filed 3–24–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XS13

Marine Mammals; File No. 87–1743

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

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that Daniel P. Costa, Ph.D., Long Marine Laboratory, University of California at Santa Cruz, 100 Shaffer Road, Santa Cruz, California 95060, has been issued an amendment to Scientific Research Permit No. 87–1743–05.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Tammy Adams, (301) 713–2289.

SUPPLEMENTARY INFORMATION: The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 87–1743–05, issued on September 29, 2009 (74 FR 56999), authorized long-term behavioral, physiological, and life history research studies on northern elephant seals (*Mirounga angustirostris*) through September 30, 2010. This amendment (Permit No. 87–1743–06) authorizes the permit holder to increase the number of weaned pups weighed, measured, and tagged in order to study the effects of a current El Niño event. This amendment has been issued prior to close of the public comment period for the application (75 FR 13257), pursuant to 50 CFR 216.33(e)(6). NMFS has determined that the unique climate conditions related to an El Niño event represent a unique research opportunity to study climactic effects on northern elephant seals.

Dated: March 19, 2010.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–6644 Filed 3–24–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV44

Marine Mammals; File No. 15128

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that Robert Pilley, Leighside, Bridge Road, Leighwoods, Bristol, BS8 3PB, United Kingdom, has been issued a permit to conduct commercial/educational photography.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, Florida 33701; phone (727) 824–5312; fax (727) 824–5309.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Carrie Hubard, (301) 713–2289.

SUPPLEMENTARY INFORMATION: On November 18, 2009, notice was published in the **Federal Register** (74 FR 59524) that a request for a commercial/educational photography permit to take bottlenose dolphins (*Tursiops truncatus*) had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Mr. Pilley is authorized to film bottlenose dolphin strand feeding events in the estuaries and creeks of Bull Creek and around Hilton Head, SC. Filmmakers may use four filming platforms: a static remotely operated camera placed on the mudflats, a radio-controlled camera helicopter, a radio-controlled camera glider, and a radio-controlled camera boat. Up to 112 dolphins annually may be approached and filmed. Footage will be used to create a 6–part television series, "Earthflight," for the British Broadcasting Corporation and Discovery Channel. The premise of the series is to follow migratory bird species around the world, with a bird's-eye perspective. The permit will expire December 31, 2011.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: March 19, 2010.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–6647 Filed 3–24–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XT56

Marine Mammals; File No. 14486

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that the Alaska SeaLife Center (ASLC), 301 Railway Avenue, PO Box 1329, Seward, AK 99664–1329 (Dr. Ian Dutton, Responsible Party) has been issued a permit to receive, import, and export marine mammal parts for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376; and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907) 586–7221; fax (907) 586–7249.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Jennifer Skidmore, (301) 713–2289.

SUPPLEMENTARY INFORMATION: On January 8, 2010, notice was published in the **Federal Register** (75 FR 1029) that a request for a permit to import specimens for scientific research had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Permit No. 14486 authorizes the ASLC to collect, receive, import, and export biological samples from up to 4,000 individual cetaceans and 5,000 individual pinnipeds (excluding walrus, *Odobenus rosmarus*) annually for research on marine mammal population ecology, diet and nutrition, reproductive physiology, toxicology, and health. The permit is issued for 5 years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Issuance of this permit, as required by the ESA, was based on a finding that such permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: March 19, 2010.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–6646 Filed 3–24–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV43

Advisory Committee to the U.S. Section to the International Commission for the Conservation of Atlantic Tunas; Spring Species Working Group Meeting

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

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Advisory Committee (Committee) to the U.S. Section to the International Commission for the Conservation of Atlantic Tunas (ICCAT) announces its spring meeting with its Species Working Group Technical Advisors April 7–9, 2010. The Committee will meet to discuss matters relating to ICCAT, including the 2009 Commission meeting results; research and management activities; global and domestic initiatives related to ICCAT; the Atlantic Tunas Convention Act-required consultation on the identification of countries that are diminishing the effectiveness of ICCAT; the results of the meetings of the Committee's Species Working Groups; and other matters relating to the international management of ICCAT species.

DATES: The open sessions of the Committee meeting will be held on April 7, 2010, 6 p.m. to 7:30 p.m.; April 8, 2010, 8:15 a.m. to 3:15 p.m.; and April 9, 2010, 9 a.m. to 1:15 p.m. Closed sessions will be held on April 8, 2010, 3:15 p.m. to 6:30 p.m.; and April 9, 2010, 8 a.m. to 9 a.m.

ADDRESSES: The meeting will be held at the Crowne Plaza, 8777 Georgia Avenue, Silver Spring, MD 20910. The phone number is 301–589–5200.

FOR FURTHER INFORMATION CONTACT: Rachel O'Malley, (301) 713–9505.

SUPPLEMENTARY INFORMATION: The Advisory Committee to the U.S. Section to ICCAT will meet in open session to receive and discuss information on (1) the 2009 ICCAT meeting results and U.S. implementation of ICCAT decisions; (2) 2009 ICCAT and NMFS research and monitoring activities; (3) 2010 ICCAT activities; (4) global and domestic initiatives related to ICCAT; (5) the Atlantic Tunas Convention Act-required consultation on the identification of countries that are diminishing the effectiveness of ICCAT; (6) the results of the meetings of the Committee's Species Working Groups; and (7) other matters relating to the international management of ICCAT species. The public will have access to the open sessions of the meeting, but there will be no opportunity for public comment.

The Committee will meet in its Species Working Groups for a portion of the afternoon of April 8, 2010, and of the morning of April 9, 2010. These sessions are not open to the public, but the results of the Species Working Group discussions will be reported to the full Advisory Committee during the Committee's open session on April 9, 2010.

Special Accommodations

The meeting location is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Rachel O'Malley at (301) 713–9505 at least 5 days prior to the meeting date.

Dated: March 19, 2010.

Rebecca J. Lent,

Director, Office of International Affairs, National Marine Fisheries Service.

[FR Doc. 2010–6645 Filed 3–24–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Sensors and Instrumentation Technical Advisory Committee; Notice of Partially Closed Meeting

The Sensors and Instrumentation Technical Advisory Committee (SITAC) will meet on April 27, 2010, 9:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology.

Agenda

Public Session

1. Welcome and Introductions.
2. Remarks from the Bureau of Industry and Security Management.
3. Industry Presentations.
4. New Business.

Closed Session

5. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yspringer@bis.doc.gov* no later than April 20, 2010.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that the materials be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on March 11, 2010 pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d)), that the portion of this meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information contact Yvette Springer on (202) 482–2813.

Dated: March 18, 2010.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2010–6602 Filed 3–24–10; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Processing Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Processing Equipment Technical Advisory Committee (MPETAC) will meet on April 8, 2010, 9 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials processing equipment and related technology.

Agenda

Open Session

1. Opening Remarks and Introductions.
2. Election of new Chairman.
3. Presentation of Papers and Comments by the Public.
4. Discussion on 2010 Proposals for Wassenaar Expert's Meeting.

Closed Session

5. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yspringer@bis.doc.gov* no later than April 1, 2010.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via e-mail.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on March 11, 2010, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 §§ (10)(d)), that the portion of the meeting dealing with matters the disclosure of portion of the meeting dealing with matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)1 and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

March 19, 2010.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2010–6605 Filed 3–24–10; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet April 13, 2010, 9 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda

Public Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the Public.
3. Opening remarks by Bureau of Industry and Security.
4. Export Enforcement update.
5. Regulations update.
6. Working group reports.
7. Automated Export System (AES) update.

Closed Session

8. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yspringer@bis.doc.gov* no later than April 6, 2010.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on March 11, 2010, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 §§ (10)(d)), that the portion of the meeting dealing with matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)1 and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: March 18, 2010.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2010–6604 Filed 3–24–10; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV47

Gulf of Mexico Fishery Management Council (Council); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene public meetings.

DATES: The meetings will be held April 12 - 15, 2010.

ADDRESSES: The meetings will be held at the Galveston Island Convention Center, 5400 Seawall Blvd., Galveston, TX 77551.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL, 33607.

FOR FURTHER INFORMATION CONTACT: Dr. Stephen Bortone, Executive Director, Gulf of Mexico Fishery Management Council; telephone: 813–348–1630.

SUPPLEMENTARY INFORMATION:

Council

Wednesday, April 14, 2010 – The Council meeting will begin at 10 a.m. with a review of the agenda and approval of the minutes. From 10:15 am – 12 noon and again at 1:30 pm 2:30 pm they will receive public testimony on exempted fishing permits (EFPs), if any final; Framework Action for Greater Amberjack and the Council will hold an open public comment period regarding any fishery issue of concern. People wishing to speak before the Council should complete a public comment card prior to the comment period. From 2:30 p.m. – 2:45 p.m. the Council will discuss Fisheries 101. From 2:45 pm - 5:30 pm the Council will review and discuss reports from the committee meetings as follows: Budget; Administrative Policy; Joint Budget/ Administrative Policy; Data Collection; and Coastal Migratory Pelagics (Mackerel) Management; Sustainable Fisheries/Ecosystem.

Thursday, April 15, 2010 - From 8:30 a.m. – 10:30 a.m. the Council will continue to review and discuss reports from the committee meetings as follows: Reef Fish Management; Shrimp Management; Red Drum; SEDAR; and AP Selection Committee. Other Business items will follow from 11:30 a.m. – 12 noon. The Council will conclude its meeting at approximately 12 noon.

Committees

Monday, April 12, 2010

8:30 am – 9 a.m. – CLOSED SESSION - Full Council - The AP Selection Committee will review fishery violations.

9 a.m. – 9:30 am - The Budget Committee will review the 2010 budget.

9:30 a.m. - 11:30 a.m. - The Administrative Policy Committee will discuss modifications to Statement of Organization Practice and Procedures and Handbook Development and review the Travel Handbook.

11:30 a.m. – 12 noon - The Joint Administrative Policy/Budget Committee will meet to discuss administrative and budgetary issues.

1:30 p.m. – 5:30 p.m. - The Reef Fish Management Committee will discuss SEDAR 19 Black Grouper Stock Assessment; receive a report from the Standing and Special Reef Fish Scientific and Statistical Committee; discuss Options Paper for Amendment 32 Gag/Red Grouper; Framework Action for Greater Amberjack; and receive a report from the Reef Fish Limited Access Privilege Program Advisory Panel Report

Recess

Tuesday, April 13, 2010

8:30 a.m. – 11:30 a.m. - The Reef Fish Management Committee will continue to meet.

1 p.m. – 2 p.m. - The Data Collection Committee will receive a report from the Ad Hoc Data Collection Advisory Panel Meeting.

2 p.m. – 4 p.m. - The Sustainable Fisheries/Ecosystem Committee will receive a report from the Uncertainty workshop; the Scientific and Statistical Committee Acceptable Biological Catch Control Rule Report; discuss the Options Paper for the Generic Annual Catch Limit/Accountability Measures Amendment; and Ecosystem Scientific and Statistical Committee Progress Report.

4 p.m. – 4:30 p.m. - The Coastal Migratory Pelagics (Mackerel) Management Committee will discuss the revised Options Paper Amendment 18 for Coastal Migratory Pelagics; South Atlantic Council Action s on Options Paper for Amendment 18 for Coastal Migratory Pelagics (Mackerel).

4:30 p.m. – 5 p.m. - The SEDAR Selection Committee will discuss changes to the SEDAR Procedure.

Recess

Immediately Following Committee Recess - There will be an informal open public question and answer session on Gulf of Mexico Fishery Management Issues.

Wednesday, April 14, 2010

8:30 a.m. – 9 a.m. - The Shrimp Management Committee will discuss the report on 2009 Shrimp Fishing Effort.

9 a.m. – 10 a.m. The Red Drum Committee will receive a status report on State Escapement Data; and an update on the SEFSC Methodology for Age Composition for Red Drum.

Although other non-emergency issues not on the agendas may come before the Council and Committees for discussion, in accordance with the M-SFCMA, those issues may not be the subject of formal action during these meetings. Actions of

the Council and Committees will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the M-SFCMA, provided the public has been notified of the Council's intent to take action to address the emergency. The established times for addressing items on the agenda may be adjusted as necessary to accommodate the timely completion of discussion relevant to the agenda items. In order to further allow for such adjustments and completion of all items on the agenda, the meeting may be extended from, or completed prior to the date/time established in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina O'Hern at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: March 22, 2010.

William D. Chappell,

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

[FR Doc. 2010–6648 Filed 3–24–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV48

Mid-Atlantic Fishery Management Council (MAFMC); Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) and its Squid, Mackerel, and Butterfish (SMB), Joint Dogfish, Research Set-Aside (RSA), and Executive Committees will hold public meetings.

DATES: Tuesday, April 13, 2010, through Thursday, April 15, 2010. On Tuesday, April 13, The Squid, Mackerel, and Butterfish (SMB) Committee will meet from 8 a.m. until Noon. The Joint Dogfish Committee will meet from 1 p.m. until 4 p.m.. From 4 p.m. until 5:30 p.m., the Research Set-Aside (RSA) will meet. On Wednesday, April 14, 2010, The Executive Committee will meet from 8 a.m. until 9 a.m. The Council will convene at 9 a.m. The Council will hold its regular Business Session from 9 a.m. until 11 a.m. to approve the December 2009 and February 2010 minutes, receive Organizational Reports, Liaison Reports, Executive Director's Report, and the status of the Fishery Management Plans (FMPs). From 11 a.m. until Noon, the Council will consider, discuss and possibly approve Monkfish Amendment 5. From 1 p.m. until 5:30 p.m., the Council will consider, discuss and possibly approve the Public Hearing Document for the Annual Catch Limits / Accountability Measures (ACL/AM) Omnibus Amendment. On Thursday April 15, the Council will convene at 8:30 a.m. From 8:30 a.m. until 9:30 a.m., the Council will receive an update on the Endangered Species Act (ESA) regarding loggerhead turtles. The Council will receive Committee reports from 9:30 a.m. until 10:30 a.m. From 10:30 a.m. until Noon, the Council will discuss continuing and new business.

ADDRESSES: The Sanderling Hotel, 1461 Duck Road, Duck, NC 27949; telephone: 252–261–4111

Council address: Mid-Atlantic Fishery Management Council, 300 N. State St., Suite 201, Dover, DE 19901–3910; telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 255.

SUPPLEMENTARY INFORMATION: Agenda items by day for the Council's Committees and the Council itself are: On Tuesday, April 13, The SMB Committee will review Amendment 11 public comments; select preferred alternatives for proposed management measures included in Amendment 11, i.e., cap capacity via limited access, update the SMB species' essential fish habitat (EFH) descriptions, evaluate fishing-related gear impacts on Loligo egg EFH, establish recreational mackerel allocation, and avoid at-sea processing problems. The SMB Committee will also review the Scoping Document developed for Amendment 14. The Joint Dogfish Committee will review and respond to the updated Transboundary Resource Assessment Committee (TRAC) assessment for dogfish; review stock status relative to biological reference point (BRP) update; address and develop a specific quota recommendation as necessary; and, review and discuss the Draft Environmental Impact Statement (DEIS) for smooth dogfish (HMS Amendment 3). The RSA Committee will discuss possible ways to improve the RSA program and consider developing research priorities for 2012.

On Wednesday, April 14, the Executive Committee will review an update from the Ad Hoc Search Committee regarding the search process for the Council's next Executive Director; review and consider the Scientific and Statistical Committee's (SSC) recommended changes to the Council's Statement of Organization, Practices and Procedures (SOPPs); and discuss the Catch Shares Workshop results and potential next steps. The Council will hold its regular Business Session to approve the December 2009 and February 2010 minutes, receive Organizational Reports, Liaison Reports, the Executive Director's Report, and an update on the status of the Council's FMPs. The Council will review the Monkfish Advisory Panel and the Oversight Committee's recommendations; select and possibly approve final measures for: implementation of annual catch limits (ACL) and accountability measures (AMs) to prevent overfishing, establishment of management reference points in accordance with the revised guidelines, and specification of quota for FY 2011–2013 and beyond using trip limits and days-at-sea (DAS) for the directed fishery. The Council will likely approve the Public Hearing Document for the ACL / AM Omnibus Amendment.

On Thursday, April 15, the Council will convene for an update regarding the change in the Endangered Species Act (ESA) listing status of loggerhead sea turtle from threatened to endangered. The Council will receive Committee reports, discuss the status of 2010 Black Sea Bass recreational measures, i.e., review and compare the Atlantic States Marine Fisheries Commission's current position and Council's February recommendation; receive a presentation regarding Stock Assessment Review Committee (SARC) 49; and discuss National Oceanic and Atmospheric Administration's (NOAA) General Counsel's (GC) opinion on SMB Amendment 10 rulemaking and consider possible options to address effects of Amendment 10.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders (302–526–5251) at least five days prior to the meeting date.

Dated: March 22, 2010.

William D. Chappell,

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

[FR Doc. 2010–6625 Filed 3ndash;24–10; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11 a.m., Friday April 30, 2010.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2010–6710 Filed 3–23–10; 11:15 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11 a.m., Friday, April 9, 2010.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2010–6714 Filed 3–23–10; 11:15 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11 a.m., Friday, April 2, 2010.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2010–6716 Filed 3–23–10; 4:15 pm]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 2 p.m., Wednesday, April 21, 2010.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2010–6715 Filed 3–23–10; 11:15 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11 a.m., March 19, 2010.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2010–6712 Filed 3–23–10; 11:15 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 11 a.m., Friday April 23, 2010.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. 2010–6713 Filed 3–23–10; 11:15 am]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2009–0088]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Consumer Product Safety Improvement Act; Consumer Product Conformity Assessment Body Registration Form

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Consumer Product Safety Commission (CPSC) is announcing that a proposed new collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by April 26, 2010.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: CPSC Desk Officer, FAX: 202–395–6974, or e-mailed to *oira_submission@omb.eop.gov.* All comments should be identified with the title "Consumer Product Safety Improvement Act; Consumer Product Conformity Assessment Body Registration Form." Also include the CPSC docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Linda Glatz, Division of Policy and Planning, Office of Information Technology and Technology Services, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7671, *lglatz@cpsc.gov*.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, the CPSC has submitted the following proposed collection of information to OMB for review and clearance: Consumer Product Safety Improvement Act; Consumer Product Conformity Assessment Body Registration Form—New Proposed Collection

A. Background

The Consumer Product Safety Improvement Act of 2008 ("CPSIA" or "Act") was signed into law on August 14, 2008 (Pub. L. 110–314). Section 102 of the CPSIA requires third party testing for any children's product that is subject to a children's product safety rule. Such third party testing of children's products must be completed before importing for consumption or warehousing or distributing the children's product in commerce. Every manufacturer of such children's products (and the private labeler of such children's product if the product bears a private label) must submit samples for testing to a third party conformity assessment body which is accredited under requirements established by the Commission. The third party conformity assessment body will test such samples for compliance with applicable children's product safety rules. Based on this testing, the manufacturer or private labeler must issue a certificate that certifies that the children's product complies with all applicable children's product safety rules.

Section 14(f)(2)(A) of the Consumer Product Safety Act (as amended by section 102(b) of the CPSIA) defines a third party conformity assessment body as one that is not owned, managed, or controlled by the manufacturer or private labeler of a product to be assessed by such conformity assessment body. A conformity assessment body that is owned, managed, or controlled by a manufacturer or a private labeler may, in certain specified circumstances, be accredited as a third party conformity assessment body. The CPSIA also refers to such entities as "firewalled conformity assessment bodies." Additionally, the CPSIA specifies that, under certain conditions, a third party conformity assessment body may include a government-owned or government-controlled entity.

The CPSIA provides that accreditation of third party conformity assessment bodies may be conducted either by the Commission or by an independent accreditation organization designated by the Commission. The Commission must maintain an up-to-date list of entities that have been accredited to assess compliance with children's product safety rules on its Web site.

The CPSC uses an online collection form, CPSC Form 223, to gather information from third party conformity assessment bodies voluntarily seeking recognition by CPSC. The information collected relates to location, accreditation, and ownership. The Commission staff will use this information to assess:

- A third party conformity assessment body's status as either an independent third party conformity assessment body, a government-owned or government-controlled conformity assessment body, or a firewalled conformity assessment body;
- Qualifications for recognition by CPSC to test for compliance to specified children's product safety rules; and
- Eligibility for recognition on the CPSC Web site.

The collection of this information on CPSC Form 223 is required: (1) Upon initial application by the third party conformity assessment body for recognition by CPSC ("initial registrations"); (2) at least every 2 years as part of a regular audit process ("re-registrations"); and (3) whenever a change to accreditation or ownership information occurs ("information changes").

In the **Federal Register** of October 29, 2009 (74 FR 55817) the CPSC published a 60-day notice requesting public comment on the proposed collection of information. One comment was received which addresses several issues. A summary of each issue identified in the comment (identified by "Comment") and a response (identified by "Response") to each appears below.

Comment 1: Form 223 needs better explanation to help companies, manufacturers, or laboratories complete the form.

Response: The current instructions for the form provide sufficient clarity for the relatively narrow group of intended users of the form, which is third party conformity assessment bodies (also known commonly as testing laboratories or third party laboratories). In general, neither manufacturers nor companies complete the form (other than for firewalled conformity assessment bodies). Based on CPSC staff experience with the laboratory applications submitted through Form 223, the vast majority of applicants appear to have a good understanding of the form's purpose and how to complete the form. An applicant who has questions regarding the form can submit them to a CPSC email address, and CPSC staff monitors and responds to these emails. If applicants raise issues for which changes to the form's instructions would increase clarity, the CPSC will make these adjustments.

Comment 2: Information on total time in business and formal complaints against the company or manufacturer and laboratory would be beneficial.

Response: The information sought by the comment is beyond the scope and purpose of Form 223. The form's primary purpose is to receive applications from testing laboratories for staff evaluation with the CPSC-established criteria for acceptance of third party testing laboratories for purposes of testing children's products to certain safety rules enforced by the Commission. Section 14(a)(3)(E) of the Consumer Product Safety Act, as amended, requires the Commission to "maintain on its Internet Web site an up-to-date list of entities that have been accredited to assess conformity with children's product safety rules." The CPSC has other mechanisms for collecting product safety-related complaints through the agency's Web site, hotline, or by mail.

Comment 3: Form 223 should incorporate filter and blocking software, and the CPSC should install safeguards to prevent identity theft or corporate espionage from occurring.

Response: CPSC computer systems receive regular security audits and have been certified for operation. The CPSC observes all industry and Federal government best practices for network security. CPSC staff regularly analyzes its systems for vulnerabilities and malware, and monitor the network for real-time intrusion attempts.

B. Estimated Burden

The CPSC staff estimates a total reporting burden of approximately 451 hours. This reporting burden is broken down into the categories of submissions as follows: (1) Initial registrations—300 hours, (2) re-registrations—150 hours, and (3) information changes—.75 hours, for a total of 450.75 hours, which the Commission will round up to 451 hours.

Initial Registrations—The Commission tentatively estimates that 300 third party conformity assessment bodies will register initially, with each response taking 1 hour for a total of 300 reporting hours (300 third party conformity assessment bodies × 1 hour = 300 hours). The 300 entity estimate is based on the fact that, by June 5, 2009, 153 third party conformity assessment bodies had already registered with the CPSC. The Commission expects to receive additional registrations, which will be further increased by a notice of requirement for "all other children's product safety rules" pursuant to section 14(a)(3)(B)(vi) of the CPSA.

Re-Registrations—Under a separate proposed rule issued by the Commission on August 13, 2009 (74 FR 40784), third party conformity assessment bodies would be required to re-register using CPSC Form 223 every two years as part of the audit process required by section 14(d)(1) of the

CPSA. Because not all third party conformity assessment bodies will first submit CPSC Form 223 at the same time, only some entities will re-register using CPSC Form 223 in any given year. Because the Commission does not know how many entities will re-register in any given year, for the purposes of this analysis, the Commission estimates that half of the third party conformity assessment bodies will re-register using CPSC Form 223 in any given year, for a total of 150 Re-Registrations per year (300 total third party conformity assessment bodies × 0.5 = 150 re-registrations per year). The reporting burden for each re-registration is estimated to be one hour, making the total reporting burden for all re-registrations per year 150 hours (150 re-registrations × 1 hour per re-registration = 150 hours).

Information Changes—Finally, under the same separate proposed rule noted above, third party conformity assessment bodies would be required to ensure that the information submitted on CPSC Form 223 remains current. Any changes in information must be submitted on a new CPSC Form 223. Based on current experience, the Commission estimates that only one percent of third party conformity assessment bodies will revise or update their information yearly, so the estimated number of respondents is 3 (300 third party conformity assessment bodies × 0.01 = 3 information changes per year). Because information changes in most cases will likely only involve updating a phone number or contact person, the estimated reporting burden is 15 minutes per update, for a total reporting burden of 45 minutes per year (3 information changes × 0.25 hours = 0.75 hours per year).

Estimated Total Cost Burden on Respondents—Assuming that CPSC Form 223 will be submitted by someone at the level of a general or operations manager at each third party conformity assessment body, at a median compensation (wages and benefits) of $68 per hour, the total cost burden to the respondents is estimated to be $30,668 ($68 × 451 hours).

Estimated Annualized Cost Burden to the Federal Government—The Commission estimates 150 re-registrations per year. Re-registrations will require review by a CPSC staff member with an average rate of pay of $67/hour (the approximate hourly compensation (wages and benefits) of a GS–13 step 5 employee). Re-registration review involves a thorough review of the accreditation certificate and scope documents provided by the third party conformity assessment body to ensure, among other things, that the accreditations are current, are to the ISO Standard ISO/IEC 17025:2005, "General Requirements for the Competence of Testing and Calibration Laboratories," and include the appropriate test methods. The review is estimated to take an average of 1.75 hours per submission. Thus, the annualized cost to the Federal government is estimated to be approximately $17,588 (150 re-registrations × 1.75 hours × $67 = $17,587.50 per year).

Additional costs to the Federal government associated with information changes submitted on CPSC Form 223 will be negligible. The Commission estimates that 15 minutes will be spent reviewing each update. The annualized cost to the Federal government is estimated to be approximately $50 (3 information changes × 0.25 hours × $67 = $50.25 per year).

Dated: March 18, 2010.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2010–6551 Filed 3–24–10; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF EDUCATION

Office of Postsecondary Education Overview Information; Fund for the Improvement of Postsecondary Education (FIPSE)—Special Focus Competition: The U.S.-Russia Program: Improving Research and Educational Activities in Higher Education; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2010.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.116S.

Dates: Applications Available: March 25, 2010.

Deadline for Transmittal of Applications: May 18, 2010.

Deadline for Intergovernmental Review: July 19, 2010.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The U.S.-Russia Program encourages cooperative education programs between institutions of higher education (IHEs) in the Russian Federation and the United States of America. The objective of this program is to provide grants that demonstrate partnerships between Russian and American IHEs that contribute to the development and promotion of educational opportunities between the two nations. The aim is to use the educational content as the vehicle for learning languages, cultural appreciation, sharing knowledge, and forming long-term relationships between the two countries. In the context of the modern international society and a global economy, an understanding of the cultural context plays a vital role in education and training.

Applications are invited from IHEs with the capacity to contribute to a collaborative project with Russian IHEs. This program is designed to support the formation of educational consortia of American and Russian IHEs to encourage mutual socio-cultural-linguistic cooperation; the joint development of curricula, educational materials, and other types of educational and methodological activities; and related educational student and staff mobility (exchanges).

Priorities: This competition includes one absolute priority and one invitational priority.

Absolute Priority: This priority is from the notice of final priorities for this program, published in the Federal Register on December 11, 2009 (74 FR 65764). For FY 2010 this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

This priority supports the formation of educational consortia of U.S. and Russian institutions to encourage mutual socio-cultural-linguistic cooperation; the coordination of joint development of curricular, educational materials; and the exchange of students. In order to be eligible for an award under this priority, the applicant in the U.S. must be a U.S. institution and the applicant in Russia must be a Russian institution. Russian institutions will receive separate but parallel funding from the Russian Ministry of Education and Science.

An interested American IHE must form a consortium with one or more of the following Russian IHEs:

(1) Moscow State Technical University; 105005, Moscow, 2 Baumanskaia str,5; POC: Irina Chubukova, Head, Office of International Projects; Ph. +7–499–2636218, E-mail: *ichubukova@bmstu.ru.*

(2) Tomsk Politechnical University, 634050, Tomsk, Lenin av., 30; POC: Gromov Alexander, Deputy Vice Rector; Ph. +7–3822–701776, E-mail: *gromov@tpu.ru.*

(3) Kazan State Technical University; 420111, Karl Marks str., 10, Kazan; POC: Lanbaev Fatih, Ph. +7–843–2389159, E-mail: *aurum_fr@mail.ru.*

(4) Saint-Petersburg State University of Information Technologies,

Department of Mechanics and Optics, 199034, St. Peterburg Birgevoi per., 16; POC: Toivonen Nikolai, Vice rector, Ph. +7–812–4384511, E-mail: *toivonen@hq.pu.ru.*

(5) National University of Science and Technology MISIS, 119049, Moscow, Leninski av., 4; POC: Timothy O'Connor, Vice Rector, Ph. +7–495–2368152, E-mail: *tim.oconnor@misis.ru.*

(6) National Research Nuclear University, 115409, Moscow, Kashirskoe sh., 31; POC: Ivliev Sergei, Ph. +7–495–3239377, E-mail: *ivliev@theor.mephi.ru.*

(7) State University—Higher School of Economics, 101000, Moscow, Miasnitskaia, 20; POC: Isak Froumin, Vice Rector, Ph. +7–495–6235249, E-mail: *ifroumin@hse.ru.*

(8) Novosibirsk State University, 630090, Novosibirsk Pirogova str., 2; POC: Tsurkan Alexey, Director of Institute, Ph. +7–383–3302334, E-mail: *gelberiets@ngs.ru.*

(9) Saint-Petersburg State Mining Institute (Technical University), 199106, St. Petersburg Vasilievski Island, line 21, 2; POC: Trushko Vladimir, Vice Rector, Ph. +7–812–3214071, E-mail: *trushko@spmi.ru.*

(10) Moscow Institute of Physics and Technology (State University), 141700, Moscow reg., Dolgoprudny, Istitutski per., 9; POC: Muravyov Alexander, Director of Innovation Center, Ph. +7–495–4088544, E-mail: *amuravyov@miptic.ru.*

(11) Perm State Technical University, 614990, Perm, Komsomolski av., 29, POC: Tashkinov Anatolyy, Vice Rector, Ph. 7–3422198430, E-mail: *adm@pstu.ru.*

(12) Samara State Aerospace University, 443086, Samara, Moscovskoe sh., 34, POC: Prokhorov Alexander, Head of Department, Ph. +7–846–2674411, E-mail: *prokhorov@ssau.ru.*

(13) Nizhni Novgorod State University, 603950, Nizhi Novgorod, Gagarin, av., 23; POC: Kuftyrev Ilia, Head of Department, Ph. 7–8314623102, E-mail: *foreign@unn.ru.*

Invitational Priority: For FY 2010, this priority is an invitational priority. Under 34 CFR 75.105(c)(1), we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

For FY 2010, the Department and the Russian Ministry have jointly decided to make up to six awards in the following three subject areas:

(A) Science and Technology
(B) Environmental Science
(C) Education, Culture, and Society

Below is a list of examples of the issues in these subject areas. However, we define these areas broadly and applicants are not limited to the examples given below. Applications are invited from consortia partners with the capacity to bring together expertise from their respective countries to find innovative ways to address global issues and challenges faced by both Russia and the U.S. Examples of the subject areas covered by this invitational priority include the following:

A. Science and Technology

- Nanotechnology
- Agricultural practices under climate change
- Biotechnology to support food production and environment
- Lifestyle, diet, and personal health under changing demographics
- Evolution and control of global diseases
- New electronic media for teaching and learning

B. Environmental Science

- Impact of climate change on ecosystems
- Natural resources for alternative energy
- Energy conservation in buildings and appliances
- Emission reduction
- Sustainable development
- Waste management
- Preservation of natural habitats, ocean resources, and forests
- Biodiversity

C. Education, Culture, and Society

- Teacher preparation for emerging sciences
- Role of two-year and community colleges, and vocational and technical institutions in meeting graduation targets
- Religious and cultural tolerance in a global society
- Impact of culture on trade and business
- Sustainability of major political systems
- Public awareness of the climate change and sustainability of the environment
- Public participation in nuclear disarmament and fighting terrorism
- Use of media to promote religious, cultural and social tolerance
- Role of free and independent media in a democratic society

Program Authority: 20 U.S.C. 1138–1138d.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 84, 85, 86, 97, 98, and 99.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.
Estimated Available Funds: $800,000.
Estimated Range of Awards: $100,000-$150,000 for the first year; $300,000–$400,000 for the entire 36-month grant period.
Estimated Average Size of Awards: $133,000 for the first year; $350,000 for the entire 36-month grant period.
Maximum Award: We will reject any application that proposes a budget exceeding $150,000 for a single budget period of 12 months. The Assistant Secretary for Postsecondary Education may change the maximum amount through a notice published in the **Federal Register.**
Estimated Number of Awards: 6.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* IHEs or combinations of IHEs and other public and private nonprofit institutions and agencies.
2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *http://e-grants.ed.gov.* To obtain a copy from ED Pubs, write, fax, or call the following: Education Publications Center, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *http://www.edpubs.gov* or at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this program or competition as follows: CFDA number 84.116S.

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 person listed under *Accessible Format* in Section VIII of this notice.

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 the equivalent of no more than 20 typed 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 and 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].

We will reject your application if you exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: March 25, 2010.

Deadline for Transmittal of Applications: May 18, 2010.

Applications for grants under the U.S.-Russia Program: Improving Research and Educational Activities in Higher Education, CFDA Number 84.116S, must be submitted electronically using the Electronic Grant Application System (e-Application) accessible through the Department's e-Grants Web site. For information (including dates and times) about how to submit your application electronically, or 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: July 19, 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 program.

5. *Funding Restrictions:* We specify unallowable costs in 34 CFR part 74. 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 U.S.-Russia Program: Improving Research and Educational Activities in Higher Education, CFDA Number 84.116S, 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: Krish Mathur, U.S. Department of Education, 1990 K Street, NW., Room 6155, Washington, DC 20006–8544. FAX: (202) 502–7877.

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 84.116S), 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 84.116S), 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 evaluating the applications for this program are from 34 CFR 75.210 and are listed in the application package.

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. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to Error! Hyperlink reference not valid..

4. *Performance Measures:* Under the Government Performance and Results Act (GPRA), the Department will use the following measures to assess the performance of this program:

(a) The percentage of FIPSE grantees reporting project dissemination to others.

(b) The percentage of FIPSE projects reporting institutionalization on their home campuses.

If funded, you will be asked to collect and report data on these measures in your project's annual performance report (34 CFR 75.590). Applicants are also advised to consider these two measures in conceptualizing the design, implementation, and evaluation of the proposed project because of their importance in the application review process. Collection of data on these measures should be part of the project evaluation plan, along with any measures of progress on goals and objectives that are specific to your project.

VII. Agency Contacts

For Further Information Contact: Krish Mathur, FIPSE—Fund for the Improvement of Postsecondary Education, 1990 K Street, NW., Room 6155, Washington, DC 20006–8544. Telephone: (202) 502–7512 or by e-mail: *krish.mathur@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.*

Delegation of Authority: The Secretary of Education has delegated authority to Daniel T. Madzelan, Director, Forecasting and Policy Analysis for the Office of Postsecondary Education, to perform the function and duties of the Assistant Secretary for Postsecondary Education.

Dated: March 22, 2010.

Daniel T. Madzelan,

Director, Forecasting and Policy Analysis.

[FR Doc. 2010–6657 Filed 3–24–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection

AGENCY: U.S. Department of Energy.

ACTION: Notice and request for OMB review and comment.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1995, the Department of Energy (DOE) invites public comment on a proposed emergency collection of information that DOE is developing to collect data on the status of activities, project progress, jobs created and retained, spend rates and performance metrics under the American Recovery and Reinvestment Act of 2009. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments regarding this collection must be received on or before April 8, 2010. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to: Drew Ronneberg, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585. Or by e-mail at *drew.ronneberg@ee.doe.gov* and DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Drew Ronneberg at *drew.ronneberg@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

This emergency information collection request contains: (1) OMB No: New; (2) Information Collection Request Title: Vehicles; (3) Type of Review: Emergency; (4) *Purpose:* To collect data on the status of activities, project progress, jobs created and retained, spend rates and performance metrics under the American Recovery and Reinvestment Act of 2009. This will ensure adequate information is available to support sound project management and to meet the transparency and accountability associated with the Recovery Act by requesting approval for monthly reporting.

(5) *Annual Estimated Number of Respondents:* 18 (6) *Annual Estimated Number of Total Responses:* 216 (7) *Annual Estimated Number of Burden Hours:* 2,160. (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $4,130. (9) *Type of Respondents:* Recipients of American Recovery and Reinvestment Act funding.

An agency head or the Senior Official, or their designee, may request OMB to authorize emergency processing of submissions of collections of information.

(a) Any such request shall be accompanied by a written determination that:

(1) The collection of information:

(i) Is needed prior to the expiration of time periods established under this Part; and

(ii) Is essential to the mission of the agency; and

(2) The agency cannot reasonably comply with the normal clearance procedures under this Part because:

(i) Public harm is reasonably likely to result if normal clearance procedures are followed;

(ii) An unanticipated event has occurred; or

(iii) The use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information or is reasonably likely to cause a statutory or court ordered deadline to be missed.

(b) The agency shall state the time period within which OMB should approve or disapprove the collection of information.

Statutory Authority: Title IV, H.R. 1 American Recovery and Reinvestment Act of 2009.

Issued in Washington, DC on March 9, 2010.

Patrick Davis,

Program Manager, Office of Vehicles Technology, Office of Energy Efficiency and Renewable Energy.

[FR Doc. 2010–6596 Filed 3–24–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection

AGENCY: U.S. Department of Energy.

ACTION: Notice and request for OMB review and comment.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1995, the Department of Energy (DOE) invites public comment on a proposed emergency collection of information that DOE is developing to collect data on the status of activities, project progress, jobs created and retained, spend rates and performance metrics under the American Recovery and Reinvestment Act of 2009. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments regarding this collection must be received on or before April 8, 2010. Written comments should be sent to the person listed in **ADDRESSES** below. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Matthew Dunne, Advanced Research Projects Agency—Energy, Department of Energy, 1000 Independence Ave., SW., AR–1/955 L'Enfant Plaza, Washington, DC 20585. Or by fax at 202–287–5450, or by e-mail at *Matthew.Dunne@hq.doe.gov* and DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection guidance and/or collection instrument should be directed to Matthew Dunne at *matthew.dunne@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: This emergency information collection request contains: (1) OMB No.: New; (2) Information Collection Request Title: Advanced Research Projects Agency—Energy (ARPA–E); (3) Type of Review: Emergency; (4) Purpose: To collect data on the status of activities, project progress, jobs created and retained, spend rates and performance metrics under the American Recovery and Reinvestment Act of 2009. This will ensure adequate information is available to support sound project management and to meet the transparency and accountability associated with the American Recovery and Reinvestment Act by requesting approval for monthly reporting. (5) Annual Estimated Number of Respondents: 100 (6) Annual Estimated Number of Total Responses: 1200 (7) Annual Estimated Number of Burden Hours: 4,800 (8) Annual Estimated Reporting and Recordkeeping Cost Burden: $523,200. (9) Type of Respondents: Recipients of American Recovery and Reinvestment Act funding.

An agency head or the Senior Official, or their designee, may request OMB to authorize emergency processing of submissions of collections of information.

(a) Any such request shall be accompanied by a written determination that:

(1) The collection of information:

(i) Is needed prior to the expiration of time periods established under this Part; and

(ii) Is essential to the mission of the agency; and

(2) The agency cannot reasonably comply with the normal clearance procedures under this Part because:

(i) Public harm is reasonably likely to result if normal clearance procedures are followed;

(ii) An unanticipated event has occurred; or

(iii) The use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information or is reasonably likely to cause a statutory or court ordered deadline to be missed.

(b) The agency shall state the time period within which OMB should approve or disapprove the collection of information.

Statutory Authority: America COMPETES Act (Pub. L. 110–69) establishes the Advanced Research Projects Agency—Energy (ARPA–E) under which DOE makes funds available to create transformational new energy technologies and systems through funding and managing research and development (R&D) efforts.

Issued in Washington, DC, on March 9, 2010.

Arun Majumdar,

Director of ARPA–E, Advanced Research Projects Agency—Energy (ARPA–E).

[FR Doc. 2010–6598 Filed 3–24–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC10–52–000; ES10–29–000; EL10–48–000]

Ameren Corporation, Illinois Power Company, Central Illinois Light Company, Central Illinois Public Service Company, Ameren Energy Resources Company, LLC, AmerenEnergy Resources Generating Company; Notice of Filing

March 18, 2010.

Take notice that on March 15, 2010, Ameren Corporation (Ameren), together with and on behalf of its directly or indirectly owned subsidiaries, filed pursuant to section 203(a) of the Federal Power Act (FPA) and Part 33 of the Regulations of the Federal Energy Regulatory Commission (Commission), 16 U.S.C. 824b(a) (2009); 18 CFR Part 33 (2009), section 305(a) of the FPA, 16 U.S.C. 825d(a) (2009), and section 204 of the FPA and Part 34 of the Commission's Regulations, 16 U.S.C. 824c (2009); 18 CFR Part 34 (2009), an application requesting the Commission to issue an order approving: (1) Its internal corporate reorganization (Reorganization Transaction) without modification, condition, or a trial-type hearing; (2) a declaratory order that the Reorganization Transaction is not barred

under FPA section 305(a); (3) the limited securities issuances and assumption of liabilities; and (4) all other approvals and waivers as necessary for final Commission approval of the Reorganization Transaction by June 17, 2010.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on April 5, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–6572 Filed 3–24–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2744–039]

North Eastern Wisconsin Hydro Inc. (N.E.W. Hydro); Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

March 18, 2010.

a. *Type of Filing:* Notice of Intent To File License Application and Request To Use the Traditional Licensing Process.

b. *Project No.:* 2744–039.

c. *Date Filed:* February 1, 2010.

d. *Submitted by:* North Eastern Wisconsin Hydro, Inc. (N.E.W. Hydro)

e. *Name of Project:* Menominee/Park Mill Hydroelectric Project.

f. *Location:* The project is located Menominee River in Menominee County, Michigan and Marinette County, Wisconsin. No Federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Applicant Contact:* Scott Klabunde, North American Hydro, 116 N. State Street, P.O. Box 167, Neshkoro, WI 54960; (920) 293–4628.

i. *FERC Contact:* Mark Ivy, (202) 502–6156 or by e-mail at *mark.ivy@ferc.gov*.

j. N.E.W. Hydro filed its request to use the Traditional Licensing Process on February 1, 2010. N.E.W. Hydro issued a public notice of its request on February 3, 2010. In a letter dated March 8, 2010, the Director of the Division of Hydropower Licensing approved N.E.W. Hydro's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and (b) the Michigan State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating N.E.W. Hydro as the Commission's non-Federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act, section 305 of the Magnuson-Stevens Fishery Conservation and Management Act, and section 106 of the National Historic Preservation Act.

m. N.E.W. Hydro filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the "eLibrary" link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov*, or toll-free at (866) 208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 2744–039. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by February 28, 2013.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–6569 Filed 3–24–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IS10–108–000]

Platte Pipe Line Company; Notice of Technical Conference

March 18, 2010.

Take notice that the Commission will convene a technical conference on Thursday, April 22, 2010, at 9 a.m. (EDT), in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The technical conference will address all aspects of Platte's Supplement No. 15 to its FERC Tariff No. 1456 proposing to establish a new prorationing procedure for crude oil volumes moving on both segments of its pipeline system,

as discussed in the Commission's Order issued on February 19, 2010.[1] Platte's current prorationing procedure contains separate allocation procedures for the two segments of its pipeline system. The proposed provisions of Supplement No. 15 would allocate capacity on both pipeline segments on the basis of historical volumes delivered to defined destinations.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

All interested persons are permitted to attend. For further information please contact Jenifer Lucas at (202) 502–8362 or e-mail *jenifer.lucas@ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–6571 Filed 3–24–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL10–47–000]

PPL Montana, LLC; Notice of Petition for Declaratory Order

March 17, 2010.

Take notice that on March 10, 2010, PPL Montana, LLC (PPL Montana) filed a Petition for Declaratory Order, pursuant to Rule 207 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.208 (2009), requesting the Commission to issue an order confirming PPL Montana's rights as a Network Resource Interconnection Service (NRIS) customer under the transmission provider NorthWestern Corporation (NorthWestern), and how NorthWestern should accommodate PPL Montana and its other NRIS customers in its generation interconnection studies, pursuant to Commission Order Nos. 2003,[1] 890,[2] and NorthWestern's Open Access Transmission Tariff.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on April 9, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–6570 Filed 3–24–10; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2006–0947; FRL–9130–2; EPA ICR No. 1857.05; OMB Control No. 2060–0445]

Agency Information Collection Activities; Proposed Collection; Comment Request; NO_X Budget Trading Program To Reduce the Regional Transport of Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on September 30, 2010. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before May 24, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2006–0947, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epamail.epa.gov.*
- *Fax:* (202) 566–1741.
- *Mail:* Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* Environmental Protection Agency, EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2006–0947. EPA's policy is that all comments received will be included in the public

[1] *Platte Pipe Line Company,* 130 FERC ¶ 61,125 (2010).

[1] *Standardization of Generator Interconnection Agreements and Procedures,* Order No. 2003, 68 FR 49,846 (Aug. 19, 2003), FERC Stats. & Regs ¶ 31,146 (2003) (Order No. 2003); *order on reh'g,* Order No. 2003–A, 69 FR 15,932 (Mar. 26, 2004), FERC Stats. & Regs. 31,160, at P 531 (2004) (Order No. 2003–A); *order on reh'g,* Order No. 2003–B, 70 FR 265 (Jan. 4, 2005) (Order No. 2003–B) FERC Stats & Regs. ¶ 31,171 (2005); *order on reh'g,* Order No. 2003–C, 70 FR 37,661 (June 30, 2005), FERC Stats. & Regs. ¶ 31,190 (2005).

[2] *Preventing Undue Discrimination and Preference in Transmission Service,* Order No. 890, 72 FR 12,266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241, at PP 418–602 (2007) (Order No. 890); *order on reh'g,* Order No. 890–A, 73 FR 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2008) (Order No. 890–A); *order on reh'g and clarification,* Order No. 890–B, 123 FERC ¶ 61,299 (2008); *order on reh'g and clarification,* Order No. 890–C, 126 FERC ¶ 61,228 (2009); *order on clarification,* Order No. 890–D, 129 FERC ¶ 61,126 (2009).

docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Karen VanSickle, Clean Air Markets Division, Office of Air and Radiation, (6204J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9220; fax number: (202) 343–2361; e-mail address: *vansickle.karen@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2006–0947, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air and Radiation Docket is 202–566–1742.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested In?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Offer alternative ways to improve the collection activity.

6. Make sure to submit your comments by the deadline identified under **DATES**.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Affected entities: Entities potentially affected by this action are those which participate in the NO_X Budget Trading Program to Reduce the Regional Transport of Ozone.

Title: NO_X Budget Trading Program to Reduce the Regional Transport of Ozone.

ICR numbers: EPA ICR No. 1857.05, OMB Control No. 2060–0445.

ICR status: This ICR is currently scheduled to expire on September 30, 2010. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The NO_X Budget Trading Program is a market-based cap and trade program created to reduce emissions of nitrogen oxides (NO_X) from power plants and other large combustion sources in the eastern United States. NO_X is a prime ingredient in the formation of ground-level ozone (smog), a pervasive air pollution problem in many areas of the eastern United States. The NO_X Budget Trading Program was designed to reduce NO_X emissions during the warm summer months, referred to as the ozone season, when ground-level ozone concentrations are highest. In 2009 the program was replaced by the Clean Air Interstate Rule Ozone Season Trading Program (CAIROS). Although the trading program was replaced after the 2008 compliance season, this information collection is being renewed for two reasons. First, some industrial sources in certain States are still required to monitor and report emissions data to EPA under these rules, so we will account for their burden. Second, the Agency may at some future time, reinstitute the NO_X Budget Trading Program. For example, this might happen if both the CAIR and CAIR replacement rules were vacated by the

Court. All data received by EPA will be treated as public information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 41 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 700.

Frequency of response: Varies by task.

Estimated total average number of responses for each respondent: 2.

Estimated total annual burden hours: 516,562.

Estimated total annual costs: $58,944,478. This includes an estimated burden cost of $30,665,678 and an estimated cost of $28,278,800 for capital investment or maintenance and operational costs.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: March 15, 2010.

Larry F. Kertcher,

Acting Director, Clean Air Markets Division, Office of Air and Radiation.

[FR Doc. 2010–6619 Filed 3–24–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: *Background.* On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before May 24, 2010.

ADDRESSES: You may submit comments, identified by FR 1375 or FR 4021 by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include the OMB control number in the subject line of the message.
- *FAX:* 202–452–3819 or 202–452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

Additionally, commenters should send a copy of their comments to the OMB Desk Officer by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503 or by fax to 202–395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/boarddocs/reportforms/review.cfm* or may be requested from the agency clearance officer, whose name appears below.

Michelle Shore, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202–263–4869).

Proposal to discontinue under OMB delegated authority the following report:

Report title: Survey of Financial Management Behaviors of Military Personnel.

Agency form number: FR 1375.

OMB control number: 7100–0307.

Frequency: Semi-annually.

Reporters: Military personnel.

Estimated annual reporting hours: 2,640 hours.

Estimated average hours per response: 20 minutes.

Number of respondents: 4,000.

General description of report: This information collection is voluntary. The statutory basis for collecting this information includes: the Truth in Lending Act, 15 U.S.C. 1604(a), the Truth in Savings Act, 12 U.S.C. 4308(a), the Equal Credit Opportunity Act, 15 U.S.C. 1691b, and the Fair Credit Reporting Act, 15 U.S.C. 1681m(h)(6), 1681s(e)(1). Further, under the Truth in Lending Act, the Board is required to report annually to Congress and make recommendations concerning the act, 15 U.S.C. 1613. Respondent participation in the survey is voluntary. No issue of confidentiality normally arises because names and any other characteristics that would permit personal identification of respondents are not reported to the Board.

Abstract: This survey, which was implemented in 2004, gathers data from two groups of military personnel: (1) Those completing a financial education course as part of their advanced individualized training and (2) those not completing a financial education course. These two groups are surveyed on their financial management behaviors and changes in their financial situations over time. Data from the survey help to determine the effectiveness of financial education for young adults in the military and the durability of the effects as measured by financial status of those receiving financial education early in their military careers.

Current actions: The Federal Reserve proposes to discontinue the FR 1375 survey as a result of (1) relocation of troops (survey participants) due to the Defense Base Closure and Realignment program, (2) cancellation of the two-day financial education course, and (3) attrition of troops from the survey sample as they left the service.

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following reports:

Report title: Notification of Nonfinancial Data Processing Activities.

Agency form number: FR 4021.

OMB control number: 7100–0306.

Frequency: On occasion.

Reporters: Bank holding companies.

Estimated annual reporting hours: 4 hours.

Estimated average hours per response: 2 hours.

Number of respondents: 2.

General description of report: This information collection is required to obtain to benefit. (12 U.S.C. 1843(c)(8), (j) and (k)) and may be given confidential treatment upon request (5 U.S.C. 552(b)(4)).

Abstract: Bank holding companies submit this notification to request permission to administer the 49-percent revenue limit on nonfinancial data processing activities on a business-line or multiple-entity basis. A request may be filed in a letter form; there is no reporting form for this information collection.

Board of Governors of the Federal Reserve System, March 22, 2010.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2010–6582 Filed 3–24–10; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 8, 2010.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. Bryn Mawr Bank Corporation, Bryn Mawr, Pennsylvania; to acquire Bryn Mawr Interim Bank, Bryn Mawr, Pennsylvania.

Board of Governors of the Federal Reserve System, March 22, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–6607 Filed 3–24–10; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–00XX]

General Services Administration; Office of Governmentwide Policy; Submission for Review; Tangible Personal Property Report; Standard Form SF–428

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Notice of request for comments regarding a new OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the GSA will be submitting to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement regarding tangible personal property. Requests for public comments were published in the **Federal Register** at 72 FR 64648, November 16, 2007 and 73 FR 67175, November 13, 2008. Comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and

methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: *Submit comments on or before:* April 26, 2010.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Nelson, Chair, Post-Award Workgroup; telephone 301–443–6808; e-mail *MNelson@hrsa.gov*; mailing address 1401 Constitution Avenue, NW., Room 6054, Washington, DC 20230.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to the Regulatory Secretariat (MVCB), General Services Administration, 1800 F Street, NW., Room 4041, Washington, DC 20405. Please cite OMB Control No. 3090–XXXX, Tangible Personal Property Report, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

GSA, on behalf of the Grants Policy Committee, is issuing a new information collection requirement regarding reporting personal tangible property. The new standard form, the Tangible Personal Property Report (SF–428) is available on OMB's main Web page at *http://www.whitehouse.gov/omb/grants_standard_report_forms/.*

B. Comments

One comment requested clarification as to whether the new report would take precedence over specific reporting requirements in the provisions of existing awards. The response in 73 FR 67175, November 13, 2008 clarified that the Tangible Personal Property Report will replace any agency unique forms currently in use, but it does not create any new reporting requirements. One comment requested clarification of the instructions for annual property reporting. The instructions were revised to clarify that annual reporting is required only for Federally owned property. One comment suggested renaming the form to more easily distinguish the attachments. A letter designation was added to the attachments.

C. Burden Estimates

The burden estimate below is for the following agencies: DOE, EPA, DOD, SSA, IMLS, DOC, DHS, HHS OPDIVs, HUD, NEA, NEH, ED, VA.

Estimated number of respondents: 14,666.

Estimated average burdens hours per response: 2.2737.

Estimated Total Annual Burden Hours: 33,346.5.

Estimated Cost: There is no expected cost to the respondents or to OMB.

ANNUAL BURDEN ESTIMATES

Instrument	Agency	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Tangible Personal Property Report (TPPR) and Attachments	DOE	750	1.5	2.75	3094
Tangible Personal Property Report (TPPR) and Attachments	EPA	300	1	2	600
Tangible Personal Property Report (TPPR) and Attachments	DOD	300	1	2.75	825
Tangible Personal Property Report (TPPR) and Attachments	SSA	125	1	2	250
Tangible Personal Property Report (TPPR) and Attachments	IMLS	1000	1.5	2	3000
Tangible Personal Property Report (TPPR) and Attachments	DOC	130	1	2	260
Tangible Personal Property Report (TPPR) and Attachments	DHS	972	1.5	2.75	4009.5
Tangible Personal Property Report (TPPR) and Attachments	HHS OPDIVs	7681	1	2	15362
Tangible Personal Property Report (TPPR) and Attachments	HUD	4158	1	1.43	5946
Tangible Personal Property Report (TPPR) and Attachments	NEA	0	0	0	0
Tangible Personal Property Report (TPPR) and Attachments	NEH	0	0	0	0
Tangible Personal Property Report (TPPR) and Attachments	ED	0	0	0	0
Tangible Personal Property Report (TPPR) and Attachments	VA	0	0	0	0

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street, NW., Room 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 3090–XXXX, Tangible Personal Property Report, in all correspondence.

Dated: March 18, 2010.

Casey Coleman,

Chief Information Officer.

[FR Doc. 2010–6608 Filed 3–24–10; 8:45 am]

BILLING CODE 6820–RH–P

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FTR 10–04]

Federal Travel Regulation (FTR); Relocation Allowances—Relocation Income Tax Allowance (RITA) Tables

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Notice of a Bulletin.

SUMMARY: On June 25, 2008 the General Services Administration (GSA) published FTR Amendment 2008–04 in the **Federal Register** (73 FR 35952) specifying that GSA would no longer publish the RITA tables found in 41 CFR Part 301–17, Appendices A through D. The tables are instead published at *http://www.gsa.gov/relocationpolicy.*

FTR Bulletin 10–04 is attached. FTR Bulletin 10–04 and all other FTR Bulletins may be found at *http://www.gsa.gov/federaltravelregulation.*

DATES: This notice is effective March 16, 2010 and applies to relocations during tax year 2008 and earlier.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Davis, Office of Governmentwide Policy (M), Office of Travel, Transportation, and Asset Management (MT), General Services Administration at (202) 208–7638 or via e-mail at *ed.davis@gsa.gov.* Please cite FTR Bulletin 10–04.

Dated: March 16, 2010.

Michael Robertson,

Associate Administrator for Governmentwide Policy, Chief Acquisition Officer.

[FR Doc. 2010–6610 Filed 3–24–10; 8:45 am]

BILLING CODE 6820–14–P

GENERAL SERVICES ADMINISTRATION

Federal Travel Regulation (FTR); Maximum Per Diem Rates for the States of Kansas, New Mexico, New York, Rhode Island, and Texas

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Notice of Per Diem Bulletin 10–03, revised continental United States (CONUS) per diem rates.

SUMMARY: The General Services Administration (GSA) has reviewed the per diem rates for certain locations in the States of Kansas, New Mexico, New York, Rhode Island and Texas and determined that they are inadequate.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Jill Denning, Office of Governmentwide Policy, Travel Management Policy, at (202) 208–7642. Please cite FTR Per Diem Bulletin 10–03.

SUPPLEMENTARY INFORMATION:

A. Background

After an analysis of the per diem rates established for FY 2010 (*see* the **Federal Register** notice at 74 FR 42898, August 25, 2009, and FTR Bulletin 10–01), the per diem rate is being changed in the following locations:

State of Kansas

- Leavenworth County.

State of New Mexico

- Dona Ana County.

State of New York

- Oswego County.

State of Rhode Island

- Bristol County.

State of Texas

- Midland County.

Per diem rates are published on the Internet at *www.gsa.gov/perdiem* as FTR per diem bulletins. This process ensures timely increases or decreases in per diem rates established by GSA for Federal employees on official travel within CONUS. Notices published periodically in the **Federal Register,** such as this one, now constitute the only notification of revisions in CONUS per diem rates to agencies.

Dated: March 17, 2010.

Becky Rhodes,

Deputy Associate Administrator, Office of Travel, Transportation and Asset Management.

[FR Doc. 2010–6612 Filed 3–24–10; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Decision To Evaluate a Petition To Designate a Class of Employees for Revere Copper and Brass in Detroit, MI, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice as required by 42 CFR 3.12(e) of a decision to evaluate a petition to designate a class of employees for Revere Copper and Brass in Detroit, Michigan, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Revere Copper and Brass.

Location: Detroit, Michigan.

Job Titles and/or Job Duties: Extruders and Shapes Specialists who worked in the Rod and Shape Mill.

Period of Employment: January 1, 1943 through December 31, 1984.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Interim Director, Division of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 877–222–7570. Information requests can also be submitted by e-mail to *DCAS@CDC.GOV.*

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2010–6636 Filed 3–24–10; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Data Collection Plan for the Customer Satisfaction Evaluation of Child Welfare Information Gateway.

OMB No.: 0970–0303.

Description: The National Clearinghouse on Child Abuse and Neglect Information (NCCAN) and the National Adoption Information Clearinghouse (NAIC) received OMB approval to collect data for a customer satisfaction evaluation under OMB control number 0970–0303. On June 20, 2006, NCCAN and NAIC were consolidated into Child Welfare Information Gateway (Information Gateway).

The proposed information collection activities include revisions to the Customer Satisfaction Evaluation approved under OMB control number 0970–0303 to reflect current information needs for providing innovative and useful products and services.

Child Welfare Information Gateway is a service of the Children's Bureau, a component within the Administration for Children and Families, and Information Gateway is dedicated to the mission of connecting professionals and concerned citizens to information on programs, research, legislation, and statistics regarding the safety, permanency, and well-being of children and families. Information Gateway's main functions are identifying information needs, locating and acquiring information, creating information, organizing and storing information, disseminating information,

and facilitating information exchange among professionals and concerned citizens. A number of vehicles are employed to accomplish these activities, including, but not limited to, Web site hosting, discussions with customers (*e.g.,* phone, live chat, *etc.*), and dissemination of publications (both print and electronic).

The Customer Satisfaction Evaluation was initiated in response to Executive Order 12862 issued on September 11, 1993. The Order calls for putting customers first and striving for a customer-driven government that matches or exceeds the best service available in the private sector. To that end, Information Gateway's evaluation is designed to better understand the kind and quality of services customers want, as well as customers' level of satisfaction with existing services. The proposed data collection activities for the evaluation include customer satisfaction surveys, customer comment cards, selected publication surveys, and focus groups.

Respondents: Child Welfare Information Gateway customers.

ANNUAL BURDEN ESTIMATES

Instrument	Affected public	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Customer Satisfaction Survey (Web site, E-mail, Print, Live Chat, and Phone).	Individuals/Households	1000	1	0.078	78.00
	Private Sector	216	1	0.078	16.84
	State, Local, or Tribal Governments	221	1	0.078	17.24
Publication Survey	Individuals/ Households	88	1	0.052	4.58
	Private Sector	17	1	0.052	0.88
	State, Local, or Tribal Governments	14	1	0.052	0.73
Comment Card (General Web and Conference versions).	Individuals/Households	300	1	0.014	4.20
	Private Sector	41	1	0.014	0.57
	State, Local, or Tribal Governments	67	1	0.014	0.94
Web site Tools Comment Card	Individuals/Households	229	1	0.014	3.21
	Private Sector	30	1	0.014	0.42
	State, Local, or Tribal Governments	28	1	0.014	.39
General Focus Group Guide	Private Sector	12	1	1.0	12.00
	State, Local, or Tribal Governments	12	1	1.0	12.00
	Private Sector	12	1	1.0	12.00
User Input Focus Group Guide	State, Local, or Tribal Governments	12	1	1.0	12.00
User Needs Assessment Focus Guide.	Private Sector	12	1	1.0	12.00
	State, Local, or Tribal Governments				
	State, Local, or Tribal Governments	12	1	1.0	12.00
Total Estimated Annual Burden Hours.					200.00

In compliance with the requirements of Section 3506 (2) (A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: March 18, 2010.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2010–6469 Filed 3–24–10; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–P–0215] (formerly Docket No. 2008P–0006)

Determination That DIDREX (Benzphetamine Hydrochloride) Tablets, 25 Milligrams, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that DIDREX (benzphetamine hydrochloride (HCl)) Tablets, 25 milligrams (mg), were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for benzphetamine HCl 25 mg tablets, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Christine Bina, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6220, Silver Spring, MD 20993–0002, 301–796–3601.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA applicants must, with certain

exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products With Therapeutic Equivalence Evaluations," which is generally known as the "Orange Book." Under FDA regulations, drugs are withdrawn from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

Under § 314.161(a)(1) (21 CFR 314.161(a)(1), the agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved. FDA may not approve an ANDA that does not refer to a listed drug.

DIDREX (benzphetamine HCl) Tablets, 25 mg, are the subject of approved NDA 12–427 held by Pharmacia and Upjohn Co., a subsidiary of Pfizer Inc. Benzphetamine HCl 25-mg tablets are indicated in the management of exogenous obesity as a short-term (a few weeks) adjunct in a regimen of weight reduction based on caloric restriction. NDA 12–427 was initially approved in 1960. In 1973, under the Drug Efficacy Study Implementation, FDA concluded that benzphetamine HCl 25-mg tablets are effective for the indications described in the **Federal Register** document published on February 12, 1973 (38 FR 4280). Pfizer Inc. ceased manufacturing DIDREX (benzphetamine HCL) Tablets, 25 mg, prior to September 1992. FDA received a citizen petition from Lachman Consultant Services, Inc., dated January 2, 2008, submitted under 21 CFR 10.30. The petition requests that the agency determine whether DIDREX (benzphetamine HCL) Tablets, 25 mg, were withdrawn from sale for reasons of safety or effectiveness.

FDA has reviewed its records and under § 314.161, has determined that DIDREX (benzphetamine HCL) Tablets, 25 mg, were not withdrawn from sale for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that DIDREX (benzphetamine HCL) Tablets, 25 mg were withdrawn from sale as a result of safety or effectiveness concerns. FDA's independent evaluation of relevant information has uncovered no information that would indicate this product was withdrawn for reasons of safety or effectiveness. In addition, DIDREX (benzphetamine HCL) Tablets currently are being marketed in a 50-mg scored tablet. The lower, 25-mg strength of DIDREX (benzphetamine HCL) Tablets is within the effective dosing range (25 to 50 mg, 1 to 3 times daily) and currently can be obtained by breaking in half the scored 50-mg strength tablet.

After considering the citizen petition and reviewing agency records, FDA determines that for the reasons outlined previously, DIDREX (benzphetamine HCL) Tablets, 25 mg, were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the agency will continue to list DIDREX (benzphetamine HCl) Tablets, 25 mg, in the "Discontinued Drug Product List" section of the Orange Book. The "Discontinued Drug Product List" delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to DIDREX (benzphetamine HCl) Tablets, 25 mg, may be approved by the agency as long as they meet all relevant legal and regulatory requirements for the approval of ANDAs. If FDA determines that the labeling of this drug product should be revised to meet current standards, the agency will advise ANDA applicants to submit such labeling.

Dated: March 22, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–6593 Filed 3–24–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0260]

Guidance for Industry on Submitting a Report for Multiple Facilities to the Reportable Food Electronic Portal as Established by the Food and Drug Administration Amendments Act of 2007; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance document entitled "Submitting a Report for Multiple Facilities to the Reportable Food Electronic Portal as Established by the Food and Drug Administration Amendments Act of 2007." The document provides guidance to the industry in complying with the Reportable Food Registry requirements prescribed by the Food and Drug Administration Amendments Act of 2007 (FDAAA), and more specifically, this guidance provides information to the industry on submitting a single reportable food report to FDA covering reportable food located at more than one of a company's facilities.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written comments on the guidance to the Division of Dockets Management (HFA—305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments on the guidance to *http://www.regulations.gov*. Submit written requests for single copies of the guidance to the Office of Food Defense, Communication and Emergency Response (HFS–005), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Faye Feldstein, Center for Food Safety and Applied Nutrition (HFS–005), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2428.

SUPPLEMENTARY INFORMATION:

I. Background

On September 27, 2007, the President signed into law the Food and Drug Administration Amendments Act of 2007 (FDAAA) (Public Law 110–85). This law amends the Federal Food, Drug, and Cosmetic Act (the act) by creating a new section 417 (21 U.S.C. 350f), Reportable Food Registry. Section 417 of the act requires the Secretary of Health and Human Services (the Secretary) to establish within FDA a Reportable Food Registry. The congressionally-identified purpose of the Reportable Food Registry is to provide a "reliable mechanism to track patterns of adulteration in food [which] would support efforts by the Food and Drug Administration to target limited inspection resources to protect the public health" (Section 1005(a)(4) of FDAAA). The Secretary has delegated to the Commissioner of the Food and Drug Administration the responsibility for administering the act, including section 417. To further the development of the Reportable Food Registry, section 417 of the act requires FDA to establish an electronic portal by which instances of reportable food must be submitted to FDA by responsible parties and may be submitted by public health officials. After receipt of reports through the electronic portal, FDA is required to review and assess the information submitted for purposes of identifying reportable food, submitting entries to the Reportable Food Registry, issuing an alert or notification as FDA deems necessary, and exercising other existing food safety authorities under FDAAA to protect the public health. The requirements under the Reportable Food Registry became effective on September 8, 2009.

In the **Federal Register** of June 11, 2009 (74 FR 27803), FDA announced the availability of a draft guidance entitled "Questions and Answers Regarding the Reportable Food Registry as Established by the Food and Drug Administration Amendments Act of 2007" and gave interested parties an opportunity to submit comments by July 27, 2009. The agency reviewed and evaluated these comments and issued a final guidance on September 8, 2009. This document is a related final guidance entitled "Submitting a Report for Multiple Facilities to the Reportable Food Electronic Portal as Established by the Food and Drug Administration Amendments Act of 2007" and contains a question and answer addressing the circumstance where reportable food is located at more than one of a company's facilities.

FDA is issuing this guidance as level 1 guidance. Consistent with FDA's good guidance practices regulation (§ 10.115 (21 CFR 10.115)), the agency will accept comments, but it is implementing the guidance document immediately, in accordance with § 10.115(g)(2), because the agency has determined that prior public participation is not feasible or appropriate. As noted, the requirements under the Reportable Food Registry became effective on September 8, 2009. Clarifying the Reportable Food Registry requirements will facilitate compliance and implementation, and will lessen the burden on industry and FDA caused by unnecessary submission of multiple reports when one reportable food situation affects more than one of a company's facilities. The guidance represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternate approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in the act. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information related to submitting reportable food reports to FDA in section 417 of the act have been approved under OMB Control No. 0910–0645.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/FoodGuidances* or *http://www.regulations.gov*.

Dated: March 19, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–6578 Filed 3–24–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Training in Primary Care Medicine and Dentistry; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Advisory Committee on Training in Primary CareMedicine and Dentistry (ACTPCMD).

Date and Time: April 22, 2010, 8 a.m.–4:30 p.m. EST.

Place: DoubleTree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

Status: The meeting will be open to the public.

Purpose: The Advisory Committee provides advice and recommendations on a broad range of issues dealing with programs and activities authorized under section 747 of the Public Health Service Act as amended by The Health Professions Education Partnership Act of 1998, Public Law 105–392. At this meeting the Advisory Committee will work on its ninth report about ways to encourage students into careers in the primary care health professions. Reports are submitted to the Secretary of the Department of Health and Human Services and to Congress.

Agenda: The meeting on Thursday, April 22 will begin with opening comments from the Health Resources and Services Administration, Bureau of Health Professions, Division of Medicine and Dentistry. In the plenary session, the Advisory Committee will continue its work on key report elements and final recommendations for the ninth report on the primary care pipeline. The Advisory Committee will determine next steps in the report preparation process and plan for the next Advisory Committee meeting. An opportunity will be provided for public comment.

For Further Information Contact: Anyone interested in obtaining a roster of members or other relevant information should write or contact Jerilyn K. Glass, M.D., PhD, Division of Medicine and Dentistry, Bureau of Health Professions, Health Resources and Services Administration, Room 9A–27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6190. The Web address for information on the Advisory Committee is *http://bhpr.hrsa.gov/medicine-dentistry/actpcmd.*

Supplementary Information: Requests to make oral comments or to provide written

comments to the Committee should be sent to Jerilyn K. Glass, M.D., PhD, Executive Secretary, ACTPCMD, at the contact information above. Individuals who plan to attend and need special assistance should notify the office at the address and phone number above at least 10 days prior to the meeting. Members of the public will have the opportunity to provide comments at the meeting.

The Advisory Committee will join the Council on Graduate Medical Education (COGME), the National Advisory Council on Nursing Education and Practice (NACNEP), and the Advisory Committee on Interdisciplinary, Community-Based Linkages (ACICBL) on Wednesday, April 21, 2010 for the third Bureau of Health Professions (BHPr) All Advisory Committee Meeting. Please refer to the **Federal Register** notice for the BHPr All Advisory Committee Meeting for additional details.

Dated: March 18, 2010.

Sahira Rafiullah,

Director, Division of Policy and Information Coordination.

[FR Doc. 2010–6585 Filed 3–24–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Service Administration

Advisory Committee on Interdisciplinary, Community-Based Linkages; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting

Name: Advisory Committee on Interdisciplinary, Community-Based Linkages (ACICBL).

Dates and Times: April 22, 2010, 8:30 a.m. to 5 p.m., EST. April 23, 2010, 8:30 a.m. to 3 p.m., EST.

Place: Doubletree Hotel and Executive Meeting Center, 8120 Wisconsin Avenue, Bethesda, Maryland 20814, Telephone: 301–652–2000.

Status: The meeting will be open to the public.

Purpose: The Committee members will advance their efforts in the development of the Tenth Annual Report with the tentative working topic, *Preparing the Interprofessional Workforce to Address Health Behaviors.* Additionally, the Committee proposes to examine Healthy People 2010 as a strategy to identify county based data on health behavior issues. Beyond the usual health behavior foci of weight, tobacco use, stress, alcohol/substance use/abuse, the Committee proposes studying the adherence to healthcare regimes with an emphasis on individual healthcare, systems, and community approaches. The meeting will afford Committee members with the opportunity to identify and discuss the current issues in an effort to formulate recommendations for the Secretary of Health and Human Services and the Congress.

Agenda: The ACICBL agenda includes an overview of the Committee's general business activities, presentations by and dialogue with experts, and discussion sessions specific to the development of recommendations to be addressed in the Tenth Annual ACICBL Report. Agenda items are subject to change as dictated by the priorities of the Committee.

Supplementary Information: The ACICBL will join the Council on Graduate Medical Education (COGME), the National Advisory Council on Nurse Education and Practice (NACNEP), and the Advisory Committee on Training in Primary Care Medicine and Dentistry (ACTPCMD) on April 21, 2010, for the third Bureau of Health Professions (BHPr) All Advisory Committee Meeting. Please refer to the **Federal Register** notice for the BHPr All Advisory Committee Meeting for additional details. Requests to make oral comments or to provide written comments to the ACICBL should be sent to Dr. Joan Weiss, Designated Federal Official, at the contact information below. Individuals who plan to attend the meeting and need special assistance should notify Dr. Weiss at least 10 days prior to the meeting, using the address and phone number below. Members of the public will have the opportunity to provide comments at the meeting.

For Further Information Contact: Anyone requesting information regarding the ACICBL should contact Dr. Joan Weiss, Designated Federal Official with the Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Rm 9–36, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6950 or *jweiss@hrsa.gov*. Additionally, CAPT Norma J. Hatot, Senior Nurse Consultant, can be contacted at (301) 443–2681 or *nhatot@hrsa.gov.*

Dated: March 18, 2010.

Sahira Rafiullah,

Director, Division of Policy and Information Coordination.

[FR Doc. 2010–6587 Filed 3–24–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee to the Director (ACD), Centers for Disease Control and Prevention

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned committee.

Time and Date: 8:30 a.m.–3:15 p.m., April 12, 2010.

Place: CDC, Thomas R. Harkin Global Communications Center, Kent "Oz" Nelson Auditorium, 1600 Clifton Road, NE., Atlanta, GA 30333.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 150 people. The public is welcome to participate during the public comment periods. The public comment periods are tentatively scheduled for 10:50 a.m. to 11:05 a.m. and 2:30 p.m. to 2:45 p.m.

Purpose: The Advisory Committee to the Director, CDC shall advise the Secretary, HHS, and the Director, CDC on policy issues and broad strategies that will enable CDC to fulfill its mission of protecting health through health promotion, prevention, and preparedness. The committee recommends ways to prioritize CDC's activities, improve results, and address health disparities. It also provides guidance to help CDC work more effectively with its various private and public sector constituents to make health protection a practical reality.

Matters To Be Discussed: The ACD, CDC will discuss and approve recommendations by the Ethics Subcommittee on "*Ethical Considerations for Decision Making Regarding Allocation of Mechanical Ventilators During a Severe Influenza Pandemic.*" Other agenda items will include updates from the ACD, CDC subcommittees; CDC organizational improvement; the CDC budget (including mitigating State cuts); an overview of winnable battles for CDC; and the need for establishment of additional ACD, CDC subcommittees to address agency needs and priorities.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Louis Salinas, M.P.A., Designated Federal Officer, ACD, CDC, 1600 Clifton Road, NE., M/S D–14, Atlanta, Georgia 30333. Telephone 404/639–7000. E-mail: *GHickman@cdc.gov.* The deadline for notification of attendance is April 7, 2010.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: March 18, 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 2010–6590 Filed 3–24–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Council on Graduate Medical Education; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Council on Graduate Medical Education (COGME).

Dates and Times: April 22, 2010, 8:30 a.m.–4:15 p.m. EST; April 23, 2010, 8:30 a.m.–4:15 p.m. EST.

Place: DoubleTree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814, Telephone: (301) 652–2000.

Status: The meeting will be open to the public except on Friday, April 23 from 12 p.m.–1 p.m.

Agenda: On April 22, the meeting will be called to order with remarks from the COGME Chair and the Executive Secretary of COGME. There will be presentations addressing topics such as: (1) The adequacy of the pediatrician workforce physician supply; (2) the results of a recent study of primary care physician workforce projections by State; (3) the Bureau of Health Professions plans for healthcare workforce analytics; (4) a patient-centered primary care collaborative; and (5) the relationship between primary care, population health, and health care costs.

On April 23, there will be presentations on the workforce components of key health reform legislation and on challenges facing graduate medical education in the coming decade. The Council members will enter into a discussion and will formulate recommendations to the Secretary of Health and Human Services and the Congress as part of the Council's emerging report covering the primary care physician workforce.

Agenda items are subject to change as priorities dictate.

For Further Information Contact: Anyone interested in obtaining a roster of members or other relevant information should write or contact Jerald M. Katzoff, Executive Secretary, COGME, Division of Medicine and Dentistry, Bureau of Health Professions, Parklawn Building, Room 9A–27, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–4443. The Web address for information on the Council and the April 22–23, 2010 meeting agenda is *http://cogme.gov*.

COGME will join the National Advisory Council on Nursing Education and Practice (NACNEP), the Advisory Committee on Training in Primary Care Medicine and Dentistry (ACTPCMD), and the Advisory Committee on Interdisciplinary, Community-Based Linkages (ACICBL) on April 21, 2010 for the third Bureau of Health Professions (BHPr) All Advisory Committee Meeting. Please refer to the **Federal Register** notice for the BHPr All Advisory Committee Meeting for additional details.

Supplementary Information: Requests to make oral comments or to provide written comments to the Council should be sent to Jerald M. Katzoff, Executive Secretary, COGME, at the contact information above. Individuals who plan to attend and need special assistance should notify the office at the address and phone number above at least 10 days prior to the meeting. Members of the public will have the opportunity to provide comments at the meeting.

Dated: March 18, 2010.

Sahira Rafiullah,

Director, Division of Policy and Information Coordination.

[FR Doc. 2010–6586 Filed 3–24–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0001]

Food and Drug Administration Clinical Trial Requirements, Regulations, Compliance, and Good Clinical Practices; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) Los Angeles District Office, in cosponsorship with the Society of Clinical Research Associates, Inc. (SoCRA) is announcing a public workshop entitled "FDA Clinical Trial Requirements, Regulations, Compliance, and Good Clinical Practices." The public workshop is intended to aid the clinical research professional's understanding of the mission, responsibilities, and authority of FDA and to facilitate interaction with FDA representatives. The program will focus on the relationships among the FDA and clinical trial staff, investigators, and ivestigational review boards (IRBs). Individual FDA representatives will discuss the informed consent process and informed consent documents, and regulations relating to drugs, devices, and biologics, as well as inspections of clinical investigators, IRBs, and research sponsors.

Date and Time: The public workshop will be held on Wednesday and Thursday, May 5 and 6, 2010, from 8 a.m. to 5 p.m.

Location: The public workshop will be held at the Hyatt Regency Newport Beach, 1107 Jamboree Rd., Newport Beach, CA 92660, 949–729–1234.

Contact: Linda Hartley, Food and Drug Administration, 19701 Fairchild, Irvine, CA 92612, 949–608–4413, FAX: 949–608–4417. Attendees are responsible for their own accommodations. To make reservations at the Hyatt Regency Newport Beach, contact the Hyatt Regency Newport Beach (see *Location).*

Registration: The SoCRA registration fees cover the cost of actual expenses, including refreshments, lunch, materials, and speaker expenses. Seats are limited; please submit your registration as soon as possible. Workshop space will be filled in order of receipt of registration. Those accepted into the workshop will receive confirmation. Registration will close after the workshop is filled. Registration at the site is not guaranteed but may be possible on a space available basis on the day of the public workshop beginning at 8 a.m. The cost of registration is as follows: FDA employee (fee waived), Government employee member ($450), Government employee nonmember ($525), non-Government employee SoCRA member ($575), non-Government employee non-SoCRA member ($650).

If you need special accommodations due to a disability, please contact Linda Hartley (see *Contact*) at least 10 days in advance of the public workshop.

Extended periods of question and answer and discussion have been included in the program schedule.

Registration instructions: To register, please submit a registration form with your name, affiliation, mailing address, phone, fax number, and e-mail, along with a check or money order payable to "SoCRA." Mail to: SoCRA, 530 West Butler Ave., suite 109, Chalfont, PA 18914. To register via the Internet, go to *http://www.socra.org/html/FDA_Conference.htm.* (FDA has verified the Web site address, but we are not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register.**)

The registrar will also accept payment by major credit cards (VISA/MasterCard/AMEX only). For more information on the meeting, or for questions on registration, contact SoCRA at 800–762–7292 or 215–822–8644, FAX: 215–822–8633, or e-mail: *SoCRAmail@aol.com.*

SUPPLEMENTARY INFORMATION: The public workshop helps fulfill the Department of Health and Human Services' and FDA's important mission to protect the public health. The workshop will provide those engaged in FDA-regulated (human) clinical trials with information on a number of topics concerning FDA requirements related to informed consent, clinical investigation requirements, institutional review board inspections, electronic record requirements, and investigator initiated research. Topics for discussion include the following: (1) What FDA expects in a pharmaceutical clinical trial; (2) adverse event reporting science, regulation, error, and safety; (3) Part 11 Compliance—Electronic Signatures; (4) informed consent regulations; (5) IRB regulations and FDA inspections; (6)

keeping informed and working together; (7) FDA conduct of clinical investigator inspections; (8) meetings with FDA: why, when, and how; (9) investigator initiated research; (10) medical device aspects of clinical research; (11) working with FDA's Center for Biologics Evaluation and Research; and (12) The inspection is over—what happens next? What are the possible FDA compliance actions?

FDA has made education of the drug and device manufacturing community a high priority to help ensure the quality of FDA-regulated drugs and devices. The public workshop helps to achieve objectives set forth in section 406 of the FDA Modernization Act of 1997 (21 U.S.C. 393) which includes working closely with stakeholders and maximizing the availability and clarity of information to stakeholders and the public. The workshop also is consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121) as an outreach activity by Government agencies to small businesses.

Dated: March 19, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–6579 Filed 3–24–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 75 FR 10296, dated March 5, 2010) is amended to reflect the establishment of the Office of the Associate Director for Policy.

Section C–B, Organization and Functions, is hereby amended as follows: Delete in their entirety the title and functional statements for the CDC Washington Office (CAQ) and insert the following:

Office of the Associate Director for Policy (CAQ). The mission of CDCs Office of the Associate Director for Policy (OADP) is to bring about policies that result in demonstrable improvements in public health-globally and at the federal, state, and local levels. In carrying out its mission, OADP: (1) Provides advice to CDC leadership in developing agency policy and legislative strategies; (2) creates and maintains partnerships to implement policy and legislative strategies; (3) implements key policies to improve public health; (4) ensures the agency's scientific credibility, reputation, and needs are respected and supported by policy makers and stakeholders.

Office of the Director (CAQ1). (1) Provides strategic advice to CDC leadership on overall agency direction and priorities, and drives CDC towards actions to reduce leading preventable causes of morbidity and mortality; (2) ensures organizational effectiveness in policy or strategy across the agency; (3) ensures capacity throughout CDC for policy and strategy; (4) leads the development and management of policy agendas with federal agencies and other organizations; (5) establishes strategy and maintains relations with key organizations and individuals working on public health policies or legislation.

Office of Prevention through Healthcare (CAQ 12). (1) Uses policy tools to gain the maximum preventive benefit from the clinical system and to integrate clinical care with community health interventions; (2) draws upon expertise and functional roles resident in other units of the Office of the Associate Director for Policy as well as from across CDC to apply that expertise and functionality to advancing prevention through healthcare; (3) crafts a coordinated agency response to implementing provisions of health reform legislation once it is enacted.

Policy Research, Analysis, and Development Office (CAQB). (1) Identifies and assists CDC leadership in establishing policy at multiple levels (federal, state, local, global and in the private sector); (2) conducts policy analysis (including regulatory, legal, economic); (3) develops and implements strategies (including regulatory, legal, economic) to deliver on policy priorities; (4) coordinates agency work with the healthcare system and other health-related organizations to advance CDCs policy agenda within the healthcare sector; (5) develops expertise in programs, regulations, and initiatives of other agencies that may provide opportunity for health impact; (6) builds relations with government agencies and other organizations to advance policy agendas, with a special emphasis on state and local agencies; (7) monitors and evaluates impact of policy implementation priorities; (8) identifies and assesses policy best practices and helps diffuse and replicate those practices; (9) leads the strengthening and development of policy capacity and talent within CDC, as well as within the larger public health community; (10) leads the development and implementation of CDCs health policy research agenda; (11) ensures CDC operates in an integrated, consistent manner in policy-related activities; (12) leverages relationships with think tanks, policy consultancies, and academic institutions; (13) manages selected partner cooperative agreements and contracts that focus on policy; and (14) develops an agency-wide strategy related to advancing policy for partner relations that are managed elsewhere in CDC.

CDC Washington Office (CAQC). (1) Directs and manages CDC interactions with Congress; (2) leads the development and oversees the execution of appropriations strategies; (3) develops and executes legislative strategies; (4) builds Congressional relations; (5) tracks and analyzes legislation; (6) develops strategy and leads response efforts for Congressional oversight; (7) builds relations with government agencies and other organizations to advance policy agendas, with an emphasis on federal agencies; (8) protects and advances the agency's reputation, scientific credibility, and interests; (9) informs CDC leadership of current developments and provides insight into the Washington policy environment; (10) coordinates District of Columbia-area assignees and helps maximize their impact in supporting the agency's strategies and priorities.

Dated: March 11, 2010.

William P. Nichols,

Acting Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2010–6375 Filed 3–24–10; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 75 FR 10296, dated March 5, 2010) is amended to reflect the reorganization of the Office of Public Health Preparedness and Response,

Office of the Director, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows: Delete in its entirety the title and functional statements for the Office of Public Health Preparedness and Response (CG) and insert the following:

Office of Public Health Preparedness and Response (CG). The mission of the Office of Public Health Preparedness and Response (OPHPR) is to safeguard health and save lives by providing a platform for public health preparedness and emergency response. To carry out its mission, OPHPR: (1) Fosters collaborations, partnerships, integration, and resource leveraging to increase the Centers for Disease Control and Prevention's (CDC) health impact and achieve population health goals; (2) provides strategic direction to support CDC's public health preparedness and response efforts; (3) manages CDC-wide preparedness and emergency response programs; (4) maintains CDC's platforms for emergency response operations—including the Emergency Operations Center (EOC), the Strategic National Stockpile (SNS), the Public Health Emergency Preparedness Cooperative Agreement Program and the Select Agent and Toxins regulatory program; (5) communicates the mission, functions and activities of public health preparedness and emergency response to internal and external stakeholders; (6) delivers critical medical assets to the site of a national emergency; (7) provides program support, technical assistance, guidance and fiscal oversight to State, local, Tribal and territorial public health department grantees; (8) provides CDC's core incident management structure to coordinate and execute preparedness and response activities; (9) regulates the possession, use and transfer of select agents and toxins and the importation of etiological agents, hosts, and vectors of human disease to protect public health in the United States; and (10) provides the centralized management and coordination of national scenario capabilities planning and exercising of these plans for CDC.

Office of the Director (CGA). (1) Manages, directs, and coordinates the activities of the office; (2) coordinates the development and implementation of OPHPR strategy in support of CDC's preparedness and response goals and priorities; (3) develops CDC policy and legislative strategy, as related to public health preparedness and emergency response; (4) serves as spokesperson for CDC policies and strategies regarding public health preparedness and response; (5) establishes, implements and communicates a comprehensive and integrated framework of preparedness and response performance goals and associated outcome, output, and process measures; (6) identifies needs and resources for new initiatives and assigns responsibilities for their development; (7) assures CDC preparedness and response plans align with National and Federal preparedness and response policy, doctrine, and plans; (8) develops performance profiles to monitor, report, and improve public health preparedness and response; (9) coordinates and implements CDC's preparedness and response learning strategy in support of OPHPR goals and priorities; (10) develops, implements, and evaluates workforce development programs for internal CDC responders and external audiences with public health preparedness and response responsibilities; (11) establishes and implements a communications strategy in support of OPHPR overarching goals and priorities; (12) develops budget formulation documents for OPHPR to support CDC's Public Health Preparedness and Response (PHPR) budget; (13) evaluates programmatic performance of all funded PHPR activities; (14) provides the OPHPR OD and Divisions with centralized business and program services; (15) plans, coordinates, and manages all aspects of program business services including human and fiscal resources, procurement, cooperative agreements, space and all administrative services; (16) devises information technology practices and procedures, and provides direction, planning and evaluation for information technology systems and services, information security, and information resources for OPHPR; (17) provides scientific oversight, advice, guidance and leadership for the development of OPHPR science and public health; (18) coordinates the development of a research agenda for emergency preparedness and response priorities; (19) coordinates and manages the activities of the Board of Scientific Counselors for OPHPR; (20) provides consultation, support and service to OPHPR divisions for planning, evaluation, policy, education and training, business and fiscal management, information resource, and workforce planning services; and (21) oversees quality assurance and quality control of stockpile assets.

Division of State and Local Readiness (CGC). The Division of State and Local Readiness provides program support, technical assistance, guidance and fiscal oversight to State, local, Tribal and territorial public health department grantees for the development, monitoring and evaluation of public health capabilities, plans, infrastructure and systems to prepare for and respond to terrorism, outbreaks of disease, natural disasters and other public health emergencies.

Office of the Director (CGC1). (1) Provides national leadership and guidance that supports and advances the work of State, local, Tribal and territorial public health emergency preparedness programs; (2) coordinates the development of scientific guidelines and standards for programmatic materials within the division to provide technical assistance and program planning at the State, local, Tribal, and territorial level; (3) represents the interests and needs of the State, local, Tribal, and territorial interests on State and local preparedness; (4) develops and ensures effective partnerships with national stakeholders and preparedness partners; and (5) provides oversight and management of division contracts, technical assistance plan development, training needs, response activities, grantee awards and fiscal accountability, and research agenda development and compliance.

Program Services Branch (CGCB). (1) Provides consultation to State, territorial, Tribal and local health departments in the management and operation of activities to support public health preparedness, response and recovery; (2) facilitates partnerships between public health preparedness programs at Federal, State, and local levels to ensure their consistency, sharing promising practices, and integration; (3) engages and supports other National Centers across CDC to ensure high quality technical assistance is available to the grantees on preparedness capabilities; (4) supervises Federal field staff providing technical assistance to State and local public health preparedness programs; (5) provides oversight to partnership organization cooperative agreements; and (6) monitors activities of cooperative agreements and grants of partners and State, local, Tribal and territorial organizations to assure program objectives and key performance indicators are achieved.

Outcome Monitoring and Evaluation Branch (CGCC). (1) Collaborates and consults with CDC staff, other Public Health Service agencies, State and local health departments, and other groups and organizations involved in preparedness activities to develop performance measures; (2) summarizes and synthesizes the preparedness research literature; identifies promising program practices and translates

findings into public health preparedness program guidance, technical assistance, and evaluation practices to be shared and implemented at the State and local level; (3) conducts evaluation research activities to evaluate the effectiveness and impact of preparedness programs; (4) provides guidance, training and technical assistance to grantees on the collection and use of program evaluation data; (5) serves as a resource for building evaluation capability with CDC staff, partners and stakeholders; (6) collects, analyzes, interprets and applies information to identify gaps in State and local public health preparedness; (7) monitors State and local achievement of public health preparedness performance measures; and (8) develops and maintains a real-time management information system to monitor projects funded by the State and Local Preparedness Cooperative Agreement requirements.

Division of Strategic National Stockpile (CGE). The Division of Strategic National Stockpile (DSNS) delivers critical medical assets to the site of a national emergency. The SNS is a national repository of antibiotics, chemical antidotes, vaccines, antitoxins, life-support medications, intravenous administration and airway maintenance supplies, and medical/surgical items. It is designed to re-supply State and local public health agencies in the event of a catastrophic health event anywhere, at anytime within the U.S. The DSNS ensures the availability and rapid deployment of the SNS and supports, guides, and advises on efforts by State and local governments to effectively manage and use SNS assets that may be deployed. The DSNS stands ready for immediate deployment to any U.S. location in the event of a catastrophic health event.

Office of the Director (CGE1). (1) Conducts the executive planning and management of the division; (2) plans strategies and methods for educating the public health and emergency response communities about the SNS and its effective use; (3) represents the SNS in State, local, and Federally sponsored exercises to test community response to a catastrophic health event; (4) directs and monitors a comprehensive strategy for managing and executing the critical systems in operating a successful commercial good manufacturing practice compliance program; (5) provides medical, pharmaceutical, and scientific oversight of the SNS formulary; (6) partners with other governmental agencies, public health organizations, and commercial entities with interest and involvement in SNS activities and information; and (7) coordinates the Stockpile Configuration Management Board that is responsible for reviewing, reconciling, and adjusting SNS package and kit design and contents to maintain consistency with medical, scientific, resource, and end user requirements.

Logistics Branch (CGEB). (1) Defines operational requirements once the SNS formulary is established by the Office of the Director and HHS Public Health Emergency Countermeasures Enterprise (PHEMCE); (2) manages the procurement of medical materiel to meet those requirements through the CDC Federal procurement system; (3) manages and tracks the expenditure of DSNS funds for the procurement, storage, and transport of medical materiel assets; (4) supervises the storage of the SNS 12-hour Push Packages; (5) manages the development and oversight of contracts for Stockpile Managed Inventory (SMI) and Vendor Managed Inventory (VMI) with commercial manufacturers and distributors of medical materiel; (6) acquires facilities and provides the infrastructure for storage of SNS assets; (7) manages the rotation of dated products in the 12-hour Push Packages, in SMI, and in VMI; (8) coordinates the physical security and safety of SNS assets with all storage sites through the Office of Security and Emergency Preparedness; (9) in full exercises or upon a Federal deployment of the SNS, provides logistics expertise for the Technical Advisory Response Unit (TARU) or other deployable/deployed teams that will accompany the SNS to the scene of the chemical/nerve agent or bio-terrorism event as well as for the team staffing the DSNS Team Room in the CDC Emergency Operations Center; (10) coordinates the recovery of unused SNS assets that will be returned to the SNS inventory which were deployed in an actual chemical/nerve agent or bio-terrorism event, including the recovery of SNS air cargo containers; (11) maintains the capacity to transport any and all SNS assets by overseeing contractual arrangements with commercial cargo carrier partners; (12) stores and maintains vaccines, therapeutic blood products, and antitoxins in selected repositories designated for managing and shipping these and other special medical countermeasures; (13) manages the forward deployment and sustainment of CHEMPACK chemical countermeasures in State-determined locations throughout the U.S. in conjunction with the other functional areas of DSNS; (14) manages the routine maintenance of SNS equipment; (15) manages the Shelf Life Extension Program in coordination with the Food and Drug Administration and the Department of Defense; (16) serves as a storage and distribution source to the Department of Defense for biologic products; (17) provides continuing development of the Federal Medical Stations (FMS) program to deploy a surge capability throughout the Nation; and (18) coordinates quality assurance and quality control visits of stockpile assets.

Program Preparedness Branch (CGEC). (1) Coordinates the development, refinement, and dissemination of guidance for CDC-funded public health project areas to plan for and build the infrastructure and systems necessary to manage and use deployed SNS assets; (2) analyzes the overall developmental needs of personnel in State/local Public Health Preparedness Programs and creates, implements, and manages technical assistance and other developmental activities designed to meet those needs; (3) coordinates DSNS supported exercises with the Response Branch and project area Preparedness Plans; (4) collaborates with the Division of State and Local Readiness (DSLR) by providing support for their responsibilities as project officers relative to the SNS components of the CDC Public Health and Emergency Preparedness cooperative agreement and supplemental awards; (5) reviews response plans of each of the CDC funded project areas and all Cities Readiness Initiative (CRI) participants to effectively manage and use deployed SNS assets; (6) functions as the primary agent for the CR1, providing assistance to State and local governments and public health agencies in engaging communities of major metropolitan areas to prepare for effective responses to large scale bioterrorist events by dispensing antibiotics and other medical supplies to their entire populations, if necessary, within 48 hours of the decision to do so; (7) plans, designs and prepares SNS related communications and select educational materials support of State/local SNS Preparedness Programs; (8) provides health communications guidance and products before, during, and after an event to assist State/local SNS Preparedness Program personnel and other public health officials in dealing with the public; (9) serves as the DSNS point of contact for collaboration with various Federal agencies and nongovernmental organizations (*e.g.,* ASTHO, NACCHO) on programmatic initiatives and issues affecting State/local SNS preparedness; (10)

collaborates with the DSNS Response and Logistics Branches on special projects to ensure smooth implementation and successful ongoing performance; and (11) during exercises or upon a Federal deployment of the SNS assets, provides Project Area liaison expertise for the TARU and for the DSNS Team Room of the CDC EOC.

Planning and Analysis Branch (CGED). (1) Supervises the design, implementation, and day-to-day execution of processes and systems to improve cost analysis, cost evaluation, planning and financial management for DSNS; (2) manages the development of program policies and procedures as well as performing periodic analysis of existing policies to assess compliance and requirements; (3) coordinates in collaboration with the other branches the development, testing, implementation, training, and selected operations of DSNS's unique information management systems and technology; (4) monitors and manages reporting of DSNS performance measures; (5) provides project management for new missions and initiatives within the division; (6) provides leadership in issue and risk management, business transformation, and change management; (7) provides support to the Veterans Administration (VA) contracting office by acting as a primary liaison between DSNS and the VA National Acquisition Center; (8) maintains contract management responsibility within DSNS; and (9) develops, in collaboration with various contractors and universities, models for use by Project Areas in implementing SNS elements of their Public Health Preparedness Programs.

Response Branch (CGEE). (1) Plans and manages response operations of the DSNS during day-to-day operations and activation in response to emergencies and exercises; (2) supervises the preparation and readiness of all on site and off site response coordination facilities to maintain each in a ready state, including oversight of all related equipment, plans, and procedures; (3) manages the development, coordination, and maintenance of DSNS response and deployment plans; (4) supervises the staffing, preparation, and readiness of TARU and Team Room staff to respond to emergencies (5) manages the planning, coordination, and conduct of internal and partner training; (6) manages the planning, coordination, and conduct of internal DSNS exercises and participation in Federal, State, and local exercises; (7) manages the DSNS Corrective Action Program for exercises and responses to actual emergencies; (8) manages personnel transport capability through overseeing and exercising contractual arrangements with the contract air service partner; (9) manages DSNS personal and program response communications devices and systems; (10) in full exercises or upon a Federal deployment of the SNS, provides staff for the SNS Team Room in the CDC EOC as well as for the TARU that will accompany the SNS assets; (11) participates in periodic Quality Assurance/Quality Control visits to SNS storage sites coordinated by the Logistics Branch; and (12) oversees the day-to-day operation and administration of DSNS' Stockpile Resource Planning (SRP) solution to ensure real time access to mission critical data and provide 24/7/365 redundant network infrastructure in coordination with ITSO.

Division of Select Agents and Toxins (CGF). The Division of Select Agents and Toxins (DSAT): (1) Conducts registration of entities with the United States (academic, military, commercial, private, Federal and non-Federal government) that use, possess and transfer select agents and toxins; (2) establishes and maintains a national database of all entities that possess select agents; (3) inspects entities to ensure that bio-safety and biosecurity regulations and national standards are met; (4) approves all select agent or toxin transfers; (5) receives and investigates reports of theft, loss, or release of a select agent or toxin; (6) partners with other government agencies, public health organizations, and registered entities to ensure compliance with the Select Agent Regulations; (7) issues permits for the importation of etiologic agents and hosts or vectors of human disease; and (8) provides guidelines and training to regulated community on requirements.

Office of the Director (CGF1). (1) Manages operations; (2) provides scientific leadership and consultation; (3) coordinates and supports the CDC Intra-governmental Select Agent and Toxin Technical Advisory Committee and the development and implementation of training programs for select agent inspectors; (4) provides oversight over the execution of regulatory rulemaking activities associated with the DSAT Select Agent and Import Permit Programs; (5) provides leadership and guidance in the area of biosafety; (6) manages and responds to reports of potential theft, loss, or release of select agents; (7) coordinates special inspections and other oversight or incidence response activities involving highly complex entities, including facilities that house BSL–4 laboratories; and (8) provides input to divisional training programs and outreach activities for the regulated community.

Operations Branch (CGFB). (1) Conducts on-site inspections of entities that use, possess and transfer select agents and toxins; (2) schedules and coordinates on-site inspections; (3) reviews entity applications, amendments and other entity documentation; (4) prepares reports of on-site inspections and conducts follow-up on noted deficiencies; (5) maintains entity files to ensure that the Program has the most current and accurate information; (6) communicates with entities Responsible Officials on any issues related to applications, amendments, inspections, and other entity documentation; (7) coordinates all activities related to operations with the records management group; and (8) serves as a liaison for the USDA, APHIS Select Agent Program.

Program Management and Operations Branch (CGFC). (1) Provides oversight and leadership over all business activities for the Division; (2) manages all space and facilities issues for DSAT; (3) develops DSAT budget planning and formulation; (4) provides leadership for DSAT management team and oversight on budget execution activities; (5) coordinates strategic planning/operations; (6) provides oversight on all contract and grant formulation, award, and administration; (7) manages division IT development, operations, and compliance; (8) manages all negotiation and/or oversight of Inter- and Intra-Agency Agreements, Memorandums of Agreements, and Service Level Agreement between the division and various entities/organizations; (9) provides property management oversight, assignment, administration, and accountability; and (10) interacts with the appropriate CDC and OPHPR business and operations offices.

Program Services Branch (CGFD). (1) Processes requests for transfer of select agents and toxins; (2) processes permit applications to import etiological agents, hosts, and vectors of human disease (not limited to select agents) into the United States; (3) evaluates entities' security plans and practices and submits reports to entities' file managers; (4) manages the security risk assessment (SRA) process to ensure that no restricted persons have access to select agents and toxins; (5) provides consultation on DSAT security policies and practices; (6) processes reports of select agents or toxins identified through diagnosis, verification, or proficiency testing; (7) reviews non-compliance issues, assists with evidence gathering, makes recommendations

concerning non-compliance issues, drafts compliance letters and tracks non-compliance issues; (8) assists in the writing and tracking of **Federal Register** notices and other legal documents for the Division; (9) serves as liaison for DSAT for the HHS Office of Inspector General and Federal Bureau of Investigation (FBI); (10) processes requests for exemptions for investigational products that are, bear, or contain select agents or toxins, or to provide a response to a public health emergency; (11) works with the FBI and the DSAT ADB on criminal investigations of the theft or loss of select agents or toxins; (12) coordinates all emergency notification functions; and (13) manages the Program's sharing of select agent information with the States.

Division of Emergency Operations (CGG). The Division of Emergency Operations (DEO) utilizing the Incident Command System (ICS) structure: (1) Staffs and utilizes the EOC to assist Centers and Offices to manage the utilization of resources to support public health routine and emergency situations, domestically and internationally; (2) serves as the primary point of contact under the Homeland Security Presidential Directive (HSPD–5) Emergency Support Function #8 (Public Health and Medical Services); (3) maintains and operates the CDC National-level EOC which serves as the focal point for collaboration and information sharing throughout CDC, 24/7/365; (4) coordinates with all CDC's Centers/Institute/Offices with planning, training, exercising, reporting and coordinating logistical support during pre-response activities and during responses; and (5) apprises CDC leadership and outside agencies of CDC response activities and subject-matter expert situational reports.

Office of the Director (CGG1). (1) Manages the day-to-day operations of the division and provides leadership, resource prioritization, and guidance during public health responses; (2) coordinates the daily management of resources for the division including budget, personnel, and acquisitions in coordination with OPHPR Office of Management Services; (3) coordinates technology improvements and information support requirements for the division and EOC; (4) provides strategic planning to develop performance management goals, objectives, and measurements for the division; (5) manages DEO's scientific activities within the division and across CDC; (6) improves the timeliness and accuracy of public health information gathering, analysis, and sharing through knowledge management and situational awareness in an effort to maximize the speed and accuracy of decision making; and (7) provides a 24/7/365 situational awareness capability to maximize accurate information flow.

Emergency and Risk Communications Branch (CGGB). (1) Identifies and implements strategies for translation and delivery of CDC's emergency risk communication messages and information to key targeted audiences for maximum health impact; (2) coordinates and integrates cross-agency communication activities to fulfill emergency risk communication strategies to respond to public health emergencies; (3) provides leadership and core staffing for the Joint Information Center in CDC's EOC during public health emergencies; (4) serves as CDC's primary communication liaison during public health emergencies to other responding agencies to ensure communication coordination with local, State, Federal, and international partners; (5) monitors, evaluates, and refines risk and emergency communication messages and channels messages based on feedback, communication research, and best practices; (6) evaluates the reach and effectiveness of CDC's risk and emergency communication messages and products; (7) ensures that the content of CDC's emergency risk communication messages are accessible (available, understandable, actionable) and disseminated to the public and target audiences; (8) develops and manages selected channels to deliver national emergency and terrorism-related messages; (9) coordinates the distribution of emergency risk communication messages and information through additional non-CDC channels and engagement mechanisms including news media, social media networks, and partner outreach; (10) provides an integrated marketing perspective to risk emergency communication; (11) employs a systematic process for assessing public awareness, knowledge, attitudes, reactions, and behaviors related to urgent health threats, CDC's emergency risk communication messages, and CDC programs; (12) uses the results of assessment process as input into agency decision making and communication planning; (13) provides technical assistance in emergency risk communication and operations to internal and external partners and supports emergency risk communication capacity building; and (14) sponsors/initiates original research related to emergency risk communication messages on customer, stakeholder, and partner needs, interests, and reactions.

Logistics Support Branch (CGGC). (1) Ensures policies, plans and procedures are in place to provide logistical, administrative, and crisis movement support to CDC deployed personnel and response assets, including communications; (2) provides deployment support for CDC personnel to provide on-site logistical and administrative support to CDC response assets, including communications; (3) coordinates with external logistical and transportation offices during emergencies; (4) advises the DEO Director regarding logistics and transportation activities and provides logistics and transportation planning support for operations plan development and during emergency responses; (5) manages property accountability; procures, maintains, manages, tracks, and coordinates movement of supplies, services, and equipment for CDC including specimens and hazardous cargo shipments in response to emergency deployment operations; (6) coordinates with the CDC Office of Health and Safety (OHS) and other CDC entities for all CDC medical evacuation missions involving the movement of suspected infectious and contagious patients; (7) coordinates off-site communications and reach-back capabilities, to include real time exchange of information for deployed personnel and teams; and (8) manages the operation and employment of the CDC aircraft.

Operations Branch (CGGD). (1) Maintains a 24/7/365 capability to respond to emergencies and coordinate emergency management processes and protocols across CDC; (2) monitors national and international public health emergencies and maintains a common operating picture for CDC leadership and HHS/ASPR; (3) serves as the central point of contact between CDC and public health agencies nationally and internationally for emergency management and response; (4) supports the myriad of sophisticated audiovisual, administrative, and communication functions, including equipment, necessary to maintain a state-of-the-art national emergency operations center; (5) identifies the requirements to fully staff all of the functional roles of the IMS to meet a 24/7/365, all hazard, public health emergency, including identifying personnel across CDC to staff operations functional roles; (6) conducts coordination, planning, and training necessary to implement Continuity of Operations (COOP); (7) coordinates movement/deployment of

resourced requirements with logistics; (8) ensures the agency deployment coordination plan represents a comprehensive strategy to identify, recruit, prepare, and maintain a workforce capable of responding rapidly and efficiently to all events requiring CDC public health response leadership, guidance, or support; (9) maintains and coordinates deployment activities supporting deployer health and safety requirements; and (10) monitors, tracks, and assists HHS/Office of Force Readiness and Deployment (OFRD) deployments which utilize Commissioned Corps officers stationed at CDC.

Plans, Training, Exercise and Evaluation Branch (CGGE). (1) Develops CDC emergency operations plans, event-specific incident annexes, and national special security event plans, and collaborates across CDC to facilitate development of internal standard operating procedures to support these plans; (2) acts as planning liaison to other organizations and reviews, analyzes and provides comments on Federal and national plans or inquires; (3) provides policy oversight and coordinates the incorporation of national policy into CDC operations plans; (4) represents the agency regarding operational planning and facilitates or participates in planning-focused work groups; (5) manages the CDC exercise and incident response evaluation program; (6) coordinates training and exercise programs and provides feedback and recommendations for After Action Reports for activities conducted at the CDC level; (7) collaborates with SMEs across CDC and external partners to facilitate evaluation of training, planning, and exercises to improve public health preparedness; (8) develops and coordinates Corrective Action Plans and tracks Improvement Plans; (9) coordinates Improvement Plans with CDC SMEs; (10) designs and delivers up-to-date CDC and preparation for exercises in emergency response training to prepare staff for emergency situations; (11) tracks CDC responder and staff certifications; (12) ensures that Division training programs support Agency goals; (13) manages exercises to test the readiness of the CDC IMS and ensures it supports the National Planning Scenarios; (14) coordinates and manages CDC's participation in pertinent external all-hazards exercises; (15) serves as the Chairperson of the CDCs Exercise Steering Committee and manages the CDC's internal exercise program in collaboration with subject matter experts across CDC; and (16) facilitates the involvement of States and other response partners in CDC exercises.

Dated: March 11, 2010.

William P. Nichols,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2010–6372 Filed 3–24–10; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2010–0025]

National Protection and Programs Directorate; National Infrastructure Advisory Council

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: Committee Management; Notice of Federal Advisory Council Meeting.

SUMMARY: The National Infrastructure Advisory Council (NIAC) will meet on Tuesday, April 13, 2010, at the National Press Club's Ballroom, 529 14th Street, NW., Washington, DC 20045.

DATES: The National Infrastructure Advisory Council will meet Tuesday, April 13, 2010 from 1:30 p.m. to 4:30 p.m. The meeting may close early if the committee has completed its business.

For additional information, please consult the NIAC Web site, *http://www.dhs.gov/niac*, or contact the NIAC Secretariat by phone at 703–235–2888 or by e-mail at *NIAC@dhs.gov.*

ADDRESSES: The meeting will be held at the National Press Club's Ballroom, 529 14th Street, NW., Washington, DC 20045. While we will be unable to accommodate oral comments from the public, written comments may be sent to Nancy J. Wong, Department of Homeland Security, National Protection and Programs Directorate, 245 Murray Lane, SW., Mail Stop 0607, Arlington, VA 20598–0607. Written comments should reach the contact person listed no later than March 30, 2010. Comments must be identified by DHS–2010–0025 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: NIAC@dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* 703–603–5098.
- *Mail:* Nancy J. Wong, Department of Homeland Security, National Protection and Programs Directorate, 245 Murray Lane, SW., Mail Stop 0607, Arlington, VA 20598–0607.

Instructions: All submissions received must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the NIAC, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Wong, National Protection and Programs Directorate, 245 Murray Lane, SW., Mail Stop 0607, Arlington, VA, 20598–0607; telephone 703–235–2888.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). The NIAC shall provide the President through the Secretary of Homeland Security with advice on the security of the critical infrastructure sectors and their information systems.

The NIAC will meet to address issues relevant to the protection of critical infrastructure as directed by the President. The April 13, 2010, meeting will receive updates on the progress of two National Infrastructure Advisory Council working groups.

The Meeting Agenda is as Follows:

I. Opening of Meeting
II. Roll Call of Members
III. Opening Remarks and Introductions
IV. Approval of January 2010 Minutes
V. Working Group Status: A Framework for Establishing Critical Infrastructure Resilience Goals
VI. Working Group Status: Optimization of Resources for Mitigating Infrastructure Disruptions
VII. New Business
VIII. Closing Remarks
IX. Adjournment

Procedural

While this meeting is open to the public, participation in the National Infrastructure Advisory Council deliberations is limited to committee members, Department of Homeland Security officials, and persons invited to attend the meeting for special presentations.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the NIAC Secretariat at 703–235–2888 as soon as possible.

Signed: March 19, 2010.

Renee W. Murphy,

Assistant Designated Federal Officer, National Infrastructure Advisory Council.

[FR Doc. 2010–6633 Filed 3–24–10; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: E-Verify Data Collection Survey; New Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: OMB–55; E-Verify Data Collection Survey. OMB Control No. 1615–NEW.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on January 6, 2010, at 75 FR 876, allowing for a 60-day public comment period. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until April 26, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management and Budget (OMB) USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Products Division, Clearance Office, 111 Massachusetts Avenue, Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and OMB USCIS Desk Officer via facsimile at 202–395–5806 or via e-mail at *oira_submission@omb.eop.gov*.

When submitting comments by e-mail please make sure to add OMB–55. in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate 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;

(2) Evaluate the accuracy of the agency's estimate of the burden of the 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:* New information collection.

(2) *Title of the Form/Collection:* E-Verify Data Collection

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* No form number, OMB–55. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS will use this collection to evaluate how the E-Verify program is working nationally and among a specific group of employers, to determine whether employers are using the program as intended, and to evaluate positive and negative impacts of the program in a mandatory environment.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Web survey 2,400 respondents at 30 minutes (.50) per response. Telephone interviews with Designated Agents 20 respondents at 1 hour per response. Telephone interviews with Designated Agents Users 60 respondents at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,280 annual burden hours. If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov*.

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210; Telephone 202–272–8377.

Dated: March 19, 2010.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2010–6554 Filed 3–24–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5376–N–17]

Notice of Proposed Information Collection: Comment Request; Request Voucher for Grant Payment and Line of Credit Control System (LOCCS) Voice Response System Access Authorization

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due:* June 1, 2010.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number (2535–0102) and should be sent to: Leroy McKinney Jr., Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4176, Washington, DC 20410; telephone: 202–402–5564, (this is not a toll-free number) or e-mail Mr. McKinney at *Leroy.McKinney Jr@HUD.gov* for a copy of the proposed form and other available information.

FOR FURTHER INFORMATION CONTACT: Leroy McKinney Jr., Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4176, Washington, DC 20410; telephone: 202–402–5564, (this is not a toll-free number) or e-mail Mr. McKinney at *Leroy.McKinney Jr@HUD.gov*.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the

proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of proposal: Request Voucher for Grant Payment and Line of Credit Control System (LOCCS) Voice Response System Access Authorization.

OMB control number, if applicable: 2535–0102.

Description of the need for the information and proposed use: Payment request vouchers for distribution of grant funds using the automated Voice Response System (VRS). An authorization form is submitted to establish access to the voice activated payment system.

Agency form numbers, if applicable: HUD–27053, HUD–27054.

Members of affected public: Not-for-profit institutions, State, Local or Tribal government.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Frequency of submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	2,420	116		0.170		47,722

Total estimated burden hours: 47,722.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 18, 2010.

Leroy McKinney Jr.,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 2010–6611 Filed 3–24–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5376–N–18]

Notice of Proposed Information; Collection: Comment Request; HUD Initiative for the Removal of Regulatory Barriers

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due: May 24, 2010.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number (2535–0120) and should be sent to: Leroy McKinney Jr., Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4176, Washington, DC 20410; telephone: 202–402–5564, (this is not a toll-free number) or e-mail Mr. McKinney at *Leroy.McKinneyJr@HUD.gov* for a copy of the proposed form and other available information.

FOR FURTHER INFORMATION CONTACT: Leroy McKinney Jr., Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4176, Washington, DC 20410; telephone: 202–402–5564, (this is not a toll-free number) or e-mail Mr. McKinney at *Leroy.McKinneyJr@HUD.gov*.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: HUD Initiative for the Removal of Regulatory Barriers.

OMB Control Number, if applicable: 2535–0120.

Description of the need for the information and proposed use: This information is to be submitted by grant applicants to obtain higher rating points based on association with successful efforts to remove regulatory barriers which may impede the production of affordable housing.

Agency form numbers, if applicable: HUD–27300.

Members of Affected Public: Business or other for-profit, Not-for-profit institutions, State, Local or Tribal government.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden:	8,500	1	....	.....	3	25,500

Total Estimated Burden Hours: 25,500.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 18, 2010.

Leroy McKinney Jr.,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 2010–6614 Filed 3–24–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Notice of Proposed Renewal of Information Collection: OMB Control Number 1093–0004, Take Pride in America Program

AGENCY: Office of the Secretary, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary, Department of the Interior (DOI), announces that it has submitted a request for proposed extension of an information collection to the Office of Management and Budget and requests public comments on this submission.

DATES: OMB has up to 60 days to approve or disapprove the information collection request, but may respond after 30 days; therefore, public comments should be submitted to OMB by *April 26, 2010,* in order to be assured of consideration.

ADDRESSES: Send your written comments by facsimile to (202) 395–5806 or e-mail (*OIRA_DOCKET@omb.eop.gov*) to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of the Interior Desk Officer (1093–0004). Also, please send a copy of your comments to U.S. Department of the Interior, Office of the Secretary, Take Pride in America, Attn. Lisa Young, Department of the Interior, 1849 C Street, NW., Mailstop 3559 MIB, Washington, DC 20240, or via e-mail to *lisa_young@ios.doi.gov.* Individuals providing comments should reference OMB control number 1093–0004, "Take Pride in America National Awards Application/Nomination Process."

FOR FURTHER INFORMATION CONTACT: Requests for additional information on this information collection should be directed to Lisa Young at U.S. Department of the Interior, Office of the Secretary, Take Pride in America, 1849 C Street, NW., Mailstop 3559 MIB, Washington, DC 20240. You may also request further information by e-mail at *lisa_young@ios.doi.gov* or call (202) 208–7586.

SUPPLEMENTARY INFORMATION:

I. Abstract

Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected parties have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection activity that the Office of the Secretary, Take Pride in America has submitted to OMB for renewal.

Under the Take Pride in America Program Act (the Act), 16 U.S.C. 46–01–4608, the Secretary of the Interior is to: (1) "Conduct a national awards program to honor those individuals and entities which, in the opinion of the Secretary * * * have distinguished themselves in activities" under the purposes of the Act, and also to (2) "establish and maintain a public awareness campaign in cooperation with public and private organizations and individuals—(A) To instill in the public the importance of the appropriate use of, and appreciation for Federal, State and local lands, facilities, and natural and cultural resources; (B) to encourage an attitude of stewardship and responsibility towards these lands, facilities, and resources; and (C) to promote participation by individuals, organizations, and communities of a conservation ethic in caring for these lands, facilities, and resources." The Act states that "[t]he Secretary is authorized * * * generally to do any and all lawful acts necessary or appropriate to further the purposes of the TPIA Program."

If this information were not collected from the public, Take Pride in America awards would be limited to individuals and organizations nominated by Federal agencies based on projects within their sphere of influence. This would effectively block many worthy individuals and organizations from being considered for these awards. The TPIA Program was launched in April of 2003 with the stated intent of honoring the best in the Nation, without restriction. It would reflect poorly on the Department and on the President if only volunteers to Federal agencies could be honored for their service to America.

The OMB granted a three-year extension on March 22, 2007. This Office is now planning to extend the information collection approval authority in order to enable the Department of the Interior to continue to comply with the Take Pride in America Act, 16 U.S.C. 4601–4608.

II. Data

(1) *Title:* Take Pride in America National Awards; Application/Nomination Process.

OMB Control Number: 1093–0004.

Current Expiration Date: March 31, 2010.

Type of Review: Information Collection Renewal.

Affected Entities: Individuals or households. Businesses and other institutions. State, local and tribal Governments.

Estimated annual number of respondents: 130.

Frequency of response: On occasion.

(2) *Annual reporting and record keeping burden:*

Average annual reporting burden per respondent: 1 hour

Total annual reporting: 130 hours.

(3) *Description of the need and use of the information:* The statutorily required information is needed to provide the Office of the Secretary with a vehicle to collect the information needed to include individuals and organizations nominated by the public in applicant pools for TPIA National Awards and to recognize them for the valuable contributions that they make in support of the stewardship of America's lands, facilities, and cultural and natural resources.

(4) As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on the information collection was published on October 16, 2009 (74 FR 53288). One comment was received. This comment was not directed at the information collection, and thus resulted in no change. This notice provides the public with an additional 30 days in which to comment on the proposed information collection activity.

III. Request for Comments

The Department of the Interior invites comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection and the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

"Burden" means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments, with names and addresses, will be available for public inspection in the Main Interior Building, 1849 C Street, NW., Washington, DC during normal business hours, excluding legal holidays. If you wish us to withhold your personal information, you must prominently state at the beginning of your comment what personal information you want us to withhold. We will honor your request to the extent allowable by law. For an appointment to inspect comments, please contact Lisa Young by telephone on (202) 208–7586, or by e-mail at *lisa_young@ios.doi.gov.* A valid picture identification is required for entry into the Department of the Interior.

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 Office of Management and Budget control number.

Dated: March 18, 2010.

Lisa Young,

Executive Director, Take Pride in America Program.

[FR Doc. 2010–6390 Filed 3–24–10; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO250000.L12200000.PM0000]

Renewal of Approved Information Collection, OMB Control Number 1004–0119

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-day notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) announces its intention to request that the Office of Management and Budget (OMB) renew OMB Control Number 1004–0119 for the paperwork requirements in 43 CFR part 2930, which pertain to permits for recreation on public lands. The BLM is also proposing to revise Form 2930–1 (Special Recreation Application and Permit) to be used only as Special Recreation Application. OMB approval of the new Special Recreation Permit would not be required, since it would be completed by the BLM.

DATES: Please submit your comments to the BLM at the address below on or before May 24, 2010.

ADDRESSES: You may mail comments to: U.S. Department of the Interior, Bureau of Land Management, Mail Stop 401–LS, 1849 C St., NW., Washington, DC 20240, Attention: 1004–0119. You may also comment by e-mail at: *Jean_Sonneman@blm.gov.*

FOR FURTHER INFORMATION CONTACT: You may contact Judi Zuckert at 202–912–7093. Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, to contact Ms. Zuckert. You may also contact Ms. Zuckert to obtain a copy, at no cost, of the regulations and forms that require this collection of information.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act (44 U.S.C. 3501–3521), require that interested members of the public and affected agencies be provided an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d) and 1320.12(a)). This notice identifies information collections that are contained in 43 CFR part 2930. The BLM will request that the OMB approve this information collection activity, as revised with respect to Form 2930–1, for a 3-year term.

At present, Form 2930–1 is both an application and a permit for special recreational uses of public lands. We are proposing to revise Form 2930–1 to be used only as an application, because certain elements of a proposed activity or event in the application may differ from the actual terms of the final permit that is issued. Developing a separate permit would enable the BLM to clearly describe the permitted activity or event.

The BLM would complete the Special Recreation Permit upon review of the information supplied by the respondent on Form 2930–1. The new permit would have to be signed by representatives of both the BLM and the respondent in order to become effective, but merely signing a form does not constitute a burden, as defined by the Paperwork Reduction Act at 44 U.S.C. 3502(2). Accordingly, OMB clearance for the new Special Recreation Permit is not required.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany the BLM's submission of the information collection requests to OMB.

The following information is provided for the information collection:

Title: Permits for Recreation on Public Lands (43 CFR part 2930).

Form: Form 2930–1, Special Recreation Permit Application.

OMB Control Number: 1004–0119.

Abstract: This notice pertains to information collections that are necessary for the management of recreation on public lands. The currently approved information collection consists of the collection of nonform information in accordance with 43 CFR part 2930, and Form 2930–1 (Special Recreation Permit Application and Permit). As discussed above, we are proposing to revise Form 2930–1 to be used only as a Special Recreation Permit Application.

Frequency: On occasion.

Currently Approved Number and Description of Respondents: 365,845 applicants for and holders of permits for recreational use of public lands managed by the BLM.

Currently Approved Reporting and Recordkeeping "*Hour*" *Burden:* 365,845 responses and 375,995 hours. The following chart details the individual components and respective hour burden

estimates of this information collection request, as currently approved:

Regulation 43 CFR part (a)	Estimated number of responses annually (b)	Estimated time per response (hours) (c)	Estimated hours annually (b × c) (d)
43 CFR Part 2930, Subpart 2932:			
Special Recreation Application and Permit; Form 2930–1 and non-form information	1,450	8	11,600
43 CFR Part 2930, Subpart 2933:			
Recreation Use Permit for Use of Fee Areas	364,395	1	364,395
Totals	365,845		375,995

Currently Approved Reporting and Recordkeeping "*Non-Hour Cost*" *Burden:* There is no currently approved annual non-hour cost burden for Control Number 1004–0119.

The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

The BLM will summarize all responses to this notice and include them in the request for OMB approval. All comments will become a matter of public record. Before including your address, phone number, email 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.

Jean Sonneman,

Acting Information Collection Clearance Officer.

[FR Doc. 2010–6627 Filed 3–24–10; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: Western Reserve Historical Society, Cleveland, OH

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the Western Reserve Historical Society, Cleveland, OH, that meet the definitions of "sacred objects" and "objects of cultural patrimony" under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

The three cultural items are a Double bladed dagger (Accession 42.1241); Chilkat blanket (No number); and Raven rattle (No number).

In 1867, the Western Reserve Historical Society was founded. Starting in 1894, book numbers were assigned consecutively to objects. In 1940, this practice was terminated, as the records for accessions were scant or non-existent. From 1940–1943, a large-scale inventory of the Society's holdings was conducted and accession numbers were assigned to those objects with no prior book number or provenience. Although the Double bladed dagger has an accession number, it has no provenience information and the catalog card has only a physical description. Furthermore, the Chilkat blanket and Raven rattle were overlooked in the 1940 inventory process, and do not have accession numbers nor provenience information. All objects did not have a cultural affiliation listed.

Collaboration with the Cleveland Museum of Natural History aided in the possible cultural affiliation of the objects with the Tlingit and Haida. Photographs of the items and copies of catalog records were sent to various Alaskan Indian organizations for identification. The Central Council of the Tlingit & Haida Indian Tribes further identified the Double bladed dagger as "Shakáts", the Chilkat blanket as "Naaxein", and the Raven rattle as "Yéil Sheishoox." Based on consultation the museum reasonably believes these cultural items are culturally affiliated with the Tlingit. Furthermore, the museum was also informed during consultation that the objects are considered to be both sacred and objects of cultural patrimony.

Officials of the Western Reserve Historical Society have determined that, pursuant to 25 U.S.C. 3001 (3)(C), the three cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Western Reserve Historical Society also have determined that, pursuant to 25 U.S.C. 3001 (3)(D), the three cultural items described above have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual. Lastly, officials of the Western Reserve Historical Society also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the sacred objects/objects of cultural patrimony and the Central Council of the Tlingit & Haida Indian Tribes.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the sacred objects/objects of cultural patrimony should contact Danielle R. Peck, Senior Registrar, Western Reserve Historical Society, 10825 E. Blvd., Cleveland, OH 44106, telephone (216) 721–5722, ext. 262, before April 26, 2010. Repatriation of the sacred objects/objects of cultural patrimony to the Central Council of the Tlingit & Haida Indian Tribes may proceed after that date if no additional claimants come forward.

The Western Reserve Historical Society is responsible for notifying the Central Council of the Tlingit & Haida

Indian Tribes that this notice has been published.

Dated: March 8, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–6573 Filed 3–24–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: U.S. Department of the Interior, National Park Service, Grand Teton National Park, Moose, WY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the U.S. Department of the Interior, National Park Service, Grand Teton National Park, WY, that meet the definition of "sacred objects" under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the superintendent, Grand Teton National Park.

The two cultural items are one pipe stem and one pipe bowl. The pipe stem is made of wood and is carved in a spiral shape. The T-shaped bowl is made of diorite and is inlaid with lead at the top of the bowl and at the square section where it fits the stem. The two cultural items are part of the David T. Vernon Collection, comprising 1,429 items of Native American art and artifacts representing more than 200 North American tribes. The objects in the collection were purchased by David T. Vernon from native people and collectors during the 1920s–1950s. On December 13, 1976, Laurance S. Rockefeller donated the David T. Vernon Collection to Grand Teton National Park.

Museum records state that the two cultural items were obtained from Kickapoo Indians. Representatives of the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas have identified these two cultural items as "sacred objects" that are integral to the practice of the traditional Drum Religion.

Officials of Grand Teton National Park have determined that, pursuant to 25 U.S.C. 3001 (3)(C), the two cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of Grand Teton National Park also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the sacred objects and the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the sacred objects should contact Mary Gibson Scott, Superintendent, Grand Teton National Park, P.O. Drawer 170, Moose, WY 83012, telephone (307) 739–3410, before April 26, 2010. Repatriation of the sacred objects to the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas may proceed after that date if no additional claimants come forward.

Grand Teton National Park is responsible for notifying the Kickapoo Traditional Tribe of Texas, Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas, and Kickapoo Tribe of Oklahoma that this notice has been published.

Dated: February 22, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–6563 Filed 3–24–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: U.S. Department of the Interior, National Park Service, Grand Teton National Park, Moose, WY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate three cultural items in the possession of the U.S. Department of the Interior, National Park Service, Grand Teton National Park, WY, that meet the definition of "sacred objects" under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the superintendent, Grand Teton National Park.

The three cultural items are two medicine masks and one turtle rattle. The two masks are carved from wood, painted, and have white horsehair attached. The rattle is made from a turtle shell. Its handle is made from the head and neck of the turtle, which are braced with wooden splints and wrapped with leather. The three cultural items are part of the David T. Vernon Collection, comprising 1,429 items of Native American art and artifacts representing more than 200 North American tribes. The objects in the collection were purchased by David T. Vernon from native people and collectors during the 1920s–1950s. On December 13, 1976, Laurance S. Rockefeller donated the David T. Vernon Collection to Grand Teton National Park.

Museum records state that the three cultural items were made by Seneca Indians and purchased in New York between 1920 and 1930. Records also indicate that both masks and the rattle are from the Cattaraugus area and identify the maker of one mask as Roger Lay and the maker of the rattle as Joe Hemlock. Tribal representatives of the Seneca Nation of New York have identified these three cultural items as "sacred objects" coming from the Cattaraugus Reservation. The three items are clearly identifiable as part of the Seneca "False Face Society." Medicine masks, also called "false faces", are sacred objects which belong to a society which still functions at the Newtown Longhouse on the Cattaraugus territory of the Seneca Nation of New York. Turtle rattles are the instrument of the medicine masks; both are used for the benefit of the people in traditional ceremonial practices. Descendents of the makers - Roger Lay and Joe Hemlock - reside on the Cattaraugas Reservation of the Seneca Nation of New York.

Officials of Grand Teton National Park have determined that, pursuant to 25 U.S.C. 3001 (3)(C), the three cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of Grand Teton National Park also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the sacred objects and the Seneca Nation of New York.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the sacred objects should contact Mary Gibson Scott, Superintendent, Grand Teton National Park, P.O. Drawer 170, Moose, WY

83012, telephone (307) 739- 3410, before April 26, 2010. Repatriation of the sacred objects to the Seneca Nation of New York may proceed after that date if no additional claimants come forward.

Grand Teton National Park is responsible for notifying the Seneca Nation of New York, Seneca-Cayuga Tribe of Oklahoma, and Tonawanda Band of Seneca Indians of New York that this notice has been published.

Dated: February 22, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–6562 Filed 3–24–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: University of Oregon Museum of Natural and Cultural History/Oregon State Museum of Anthropology, Eugene, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and an associated funerary object in the possession of the University of Oregon Museum of Natural and Cultural History/Oregon State Museum of Anthropology, Eugene, OR. The human remains and associated funerary object were removed from the Columbia River area.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary object. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the University of Oregon Museum of Natural and Cultural History/Oregon State Museum of Anthropology professional staff in consultation with representatives of the Confederated Tribes of the Chehalis Reservation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Grand Ronde Community of Oregon; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; Kalispel Indian Community of the Kalispel Reservation, Washington; Nez Perce Tribe, Idaho; Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington; and Spokane Tribe of the Spokane Reservation, Washington.

At an unknown date, human remains representing a minimum of four individuals were removed from the Columbia River area. In 1941, the human remains were donated to the museum by a private party. No known individuals were identified. The one associated funerary object is a strand of cordage.

Skeletal evidence from two individuals indicates they are Native American. The remaining human remains are too fragmentary for identification, but are reasonably believed to be Native American based upon their association with the other individuals. Museum documentation is limited, and records only the general provenience, "Columbia River area." Given the origin of most human remains curated by the University of Oregon Museum of Natural and Cultural History/Oregon State Museum of Anthropology, it is likely that these are from the Columbia River in or near the state of Oregon, but this cannot be ascertained.

The Columbia River area has been occupied by many tribes. The tribes traveled to gather resources and to trade. The descendants of the tribes from the Columbia River area are members of the Confederated Tribes of the Chehalis Reservation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Grand Ronde Community of Oregon; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; Kalispel Indian Community of the Kalispel Reservation, Washington; Nez Perce Tribe, Idaho; Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington; and Spokane Tribe of the Spokane Reservation, Washington.

Officials of the University of Oregon Museum of Natural and Cultural History/Oregon State Museum of Anthropology have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of four individuals of Native American ancestry. Officials of the University of Oregon Museum of Natural and Cultural History/Oregon State Museum of Anthropology have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the one object described above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the University of Oregon of Natural and Cultural History/Oregon State Museum of Anthropology have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary object and the Confederated Tribes of the Chehalis Reservation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Grand Ronde Community of Oregon; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; Kalispel Indian Community of the Kalispel Reservation, Washington; Nez Perce Tribe, Idaho; Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington; and/or Spokane Tribe of the Spokane Reservation, Washington.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary object should contact Dr. Pamela Endzweig, Director of Collections, University of Oregon Museum of Natural and Cultural History/Oregon State Museum of Anthropology, 1224 University of Oregon, Eugene, OR 97403–1224, telephone (541) 346–5120, before April 26, 2010. Repatriation of the human remains and associated funerary object to the Confederated Tribes of the Chehalis Reservation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Grand Ronde Community of Oregon; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; Kalispel Indian Community of the Kalispel Reservation, Washington; Nez Perce Tribe, Idaho; Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington; and/or Spokane Tribe of the Spokane Reservation, Washington may proceed after that date if no additional claimants come forward.

The Oregon State Museum of Anthropology is responsible for notifying the Confederated Tribes of the

Chehalis Reservation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Grand Ronde Community of Oregon; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; Kalispel Indian Community of the Kalispel Reservation, Washington; Nez Perce Tribe, Idaho; Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington; and Spokane Tribe of the Spokane Reservation, Washington that this notice has been published.

Dated: March 3, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–6574 Filed 3–24–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Central Washington University, Department of Anthropology, Ellensburg, WA, and Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the control of the Central Washington University, Department of Anthropology, Ellensburg, WA, and the Thomas Burke Memorial Washington State Museum (Burke Museum), University of Washington, Seattle, WA. The human remains were removed from King County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Burke Museum and Central Washington University professional staff in consultation with representatives of the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Puyallup Tribe of the Puyallup Reservation, Washington; Sauk-Suiattle Indian Tribe of Washington; Snoqualmie Tribe, Washington; Suquamish Indian Tribe of the Port Madison Reservation, Washington; and Tulalip Tribes of the Tulalip Reservation, Washington.

In 1920, human remains representing a minimum of one individual were removed from a Georgetown neighborhood along the Duwamish River in Seattle, King County, WA. The remains were removed by T.H. Vincent and transferred to the King County Coroner's Office. In 1920, the human remains were subsequently transferred to the Burke Museum (Burke Accn. #1800). In 1974, the Burke Museum staff legally transferred elements associated with the individual to Central Washington University (CWU ID AS). No known individual was identified. No associated funerary objects are present.

In 1924, human remains representing a minimum of two individuals were removed from Fauntleroy Park in King County, WA, by Mr. Hall. The remains were uncovered by a steam shovel while widening the road. Mr. Hall transferred the human remains to the King County Coroner's Office. They were subsequently transferred to the Burke Museum later that same year (Burke Accn. #2056). In 1974, the Burke Museum staff legally transferred elements associated with the individuals to Central Washington University (CWU ID AS). No known individuals were identified. No associated funerary objects are present.

The above-mentioned human remains have been determined to be Native American based on a variety of sources, including archeological and biological evidence. The human remains were determined to be consistent with Native American morphology as evidenced either through cranial deformation, bossing of the cranium, presence of wormian bones, or shovel shaped incisors. Information available in the original accession files helped affirm these determinations.

The above-mentioned sites fall within the Southern Lushootseed language group of Salish cultures. The Duwamish people primarily occupied this area (Ruby and Brown 1986:72). As per the terms of the 1855 Point Elliot Treaty, the Duwamish were assigned to the Suquamish Reservation (called Fort Kitsap at the time). After 1856, due to violence between whites and Native Americans, as well as the competition over available resources, many Duwamish left the Suquamish Reservation. The Indian agent subsequently assigned them to the Muckleshoot Reservation. The Duwamish people are represented by the following present-day tribes: the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Snoqualmie Tribe, Washington; Suquamish Indian Tribe of the Port Madison Reservation, Washington; and Tulalip Tribes of the Tulalip Reservation, Washington.

Officials of the Burke Museum and Central Washington University have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains listed above represent the physical remains of three individuals of Native American ancestry. Officials of the Burke Museum and Central Washington University have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Snoqualmie Tribe, Washington; Suquamish Indian Tribe of the Port Madison Reservation, Washington; and Tulalip Tribes of the Tulalip Reservation, Washington.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Lourdes Henebry-DeLeon, NAGPRA Program Director, Department of Anthropology, Central Washington University, Ellensburg, WA 98926–7544, telephone (509) 963–2671 or Dr. Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195–3010, telephone (206) 685–3849, before April 26, 2010. Repatriation of the human remains to the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Snoqualmie Tribe, Washington; Suquamish Indian Tribe of the Port Madison Reservation, Washington; and Tulalip Tribes of the Tulalip Reservation, Washington may proceed after that date if no additional claimants come forward.

The Burke Museum is responsible for notifying the Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Puyallup Tribe of the Puyallup Reservation, Washington; Sauk-Suiattle Indian Tribe of Washington; Snoqualmie Tribe, Washington, Suquamish Indian Tribe of the Port Madison Reservation, Washington; and Tulalip Tribes of the Tulalip Reservation, Washington that this notice has been published.

Dated: March 3, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–6575 Filed 3–24–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: University of Washington, Department of Anthropology, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the University of Washington, Department of Anthropology, Seattle, WA. The human remains were removed from Huckleberry Island, Skagit County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the University of Washington, Department of Anthropology and Burke Museum staff in consultation with representatives of the Samish Indian Tribe, Washington.

At an unknown date, human remains representing a minimum of one individual were removed from Huckleberry Island, Skagit County, WA. No known individual was identified. No associated funerary objects are present.

The human remains were determined to be consistent with Native American morphology, as evidenced through cranial deformation and presence of wormian bones.

Huckleberry Island is a small island located approximately 1/4 mile southeast of Guemes Island, in Skagit County, WA. This area falls within the Central Coast Salish cultural group (Suttles 1990). Historical documentation indicates that the Samish people traditionally occupied Guemes Island (Amoss 1978, Roberts 1975, Ruby and Brown 1986, Smith 1941, Suttles 1951, Swanton 1952) and Huckleberry Island (Barg 2008, unpublished report) both before and after contact. Today, the Samish people are represented by the Samish Indian Nation, Washington.

Officials of the University of Washington, Department of Anthropology have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the University of Washington, Department of Anthropology have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Samish Indian Tribe, Washington.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Bettina Shell-Duncan, University of Washington, Department of Anthropology, Box 353100, Seattle, WA 98195, telephone (206) 543–9607, before April 26, 2010. Repatriation of the human remains to the Samish Indian Tribe, Washington may proceed after that date if no additional claimants come forward.

The University of Washington Department of Anthropology and the Burke Museum is responsible for notifying the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Chehalis Reservation, Washington; Confederated Tribes of the Colville Reservation, Washington; Hoh Indian Tribe of the Hoh Indian Reservation, Washington; Jamestown S'Klallam Tribe of Washington; Kalispel Indian Community of the Kalispel Reservation, Washington; Lower Elwha Tribal Community of the Lower Elwha Reservation, Washington; Lummi Tribe of the Lummi Reservation, Washington; Makah Indian Tribe of the Makah Indian Reservation, Washington; Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington; Nisqually Indian Tribe of the Nisqually Reservation, Washington; Nooksack Indian Tribe of Washington; Port Gamble Indian Community of the Port Gamble Reservation, Washington; Puyallup Tribe of the Puyallup Reservation, Washington; Quileute Tribe of the Quileute Reservation, Washington; Quinault Tribe of the Quinault Reservation, Washington; Samish Indian Tribe, Washington; Sauk-Suiattle Indian Tribe of Washington; Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington; Skokomish Indian Tribe of the Skokomish Reservation, Washington; Spokane Tribe of the Spokane Reservation, Washington; Squaxin Island Tribe of the Squaxin Island Reservation, Washington; Stillaguamish Tribe of Washington; Suquamish Indian Tribe of the Port Madison Reservation, Washington; Swinomish Indians of the Swinomish Reservation, Washington; Tulalip Tribes of the Tulalip Reservation, Washington; and Upper Skagit Indian Tribe of Washington that this notice has been published.

Dated: March 8, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–6576 Filed 3–24–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC and U.S. Department of the Interior, National Park Service, Hovenweep National Monument, Blanding, UT

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and the possession of the U.S. Department of the Interior, National Park Service, Hovenweep National Monument, Blanding, UT. The human remains and associated funerary objects were removed from the vicinity of the Aneth Trading Post site in San Juan County, UT.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains and associated funerary objects was made by Hovenweep National Monument professional staff and the Bureau of Indian Affairs in consultation with representatives of the Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; Ohkay Owingeh, New Mexico (formerly the Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Southern Ute Indian Tribe of the

Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Zuni Tribe of the Zuni Reservation, New Mexico. The Jicarilla Apache Nation, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; and Ysleta del Sur Pueblo of Texas were contacted for consultation purposes but did not attend the consultation meetings.

In 1976, human remains representing a minimum of one individual were removed from the vicinity of the Aneth Trading Post site on the reservation of the Navajo Nation, Arizona, New Mexico & Utah in San Juan County, UT, possibly by San Jose State University. The fragmentary state of the remains likely resulted from grading, construction, and road building activities that adversely affected the site. The Aneth Trading Post site dates from the Pueblo I (A.D. 700–900) through the Pueblo III (A.D. 1150–1300) periods. No known individual was identified. The four associated funerary objects are one corrugated sherd and three unidentified animal bone fragments.

The Bureau of Indian Affairs and Hovenweep National Monument have determined that, due to a lack of contextual information, there is not sufficient evidence to support a precise cultural affiliation determination for the human remains and associated funerary objects.

Officials of the Bureau of Indian Affairs and Hovenweep National Monument have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Bureau of Indian Affairs and Hovenweep National Monument also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the four objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Bureau of Indian Affairs and Hovenweep National Monument have determined that, pursuant to 25 U.S.C. 3001 (2), a relationship of shared group identity cannot reasonably be traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.

The Native American Graves Protection and Repatriation Review Committee (Review Committee) is responsible for recommending specific actions for disposition of culturally unidentifiable human remains. In February 2009, the Bureau of Indian Affairs and Hovenweep National Monument requested that the Review Committee recommend disposition of the culturally unidentifiable human remains to the Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Zia, New Mexico; and Zuni Tribe of the Zuni Reservation, New Mexico based on geographic proximity. The Navajo Nation, Arizona, New Mexico & Utah provided a letter of support for the "culturally unidentifiable" determination by the Bureau of Indian Affairs and Hovenweep National Monument and the disposition to the four Indian tribes listed above due to the unique circumstances of the site. The Review Committee considered the proposal at its May 23–24, 2009, meeting and recommended disposition of the human remains to the Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Zia, New Mexico; and Zuni Tribe of the Zuni Reservation, New Mexico. The Bureau of Indian Affairs intends to convey the associated funerary objects to the tribes pursuant to 16 U.S.C. 18f–2.

A September 16, 2009, letter from the Designated Federal Officer, writing on behalf of the Secretary of the Interior, transmitted the authorization for the Bureau of Indian Affairs and Hovenweep National Monument to effect disposition of the physical remains of the culturally unidentifiable individual to the four Indian tribes listed above contingent on the publication of a Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Coralee S. Hays, superintendent, Hovenweep National Monument, McElmo Route, Cortez, CO 81321, telephone (970) 562–4282, before April 26, 2010. Disposition of the human remains to the Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Zia, New Mexico; and Zuni Tribe of the Zuni Reservation, New Mexico may proceed after that date if no additional claimants come forward.

The Bureau of Indian Affairs and Hovenweep National Monument are responsible for notifying the Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Ohkay Owingeh, New Mexico (formerly the Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: January 26, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–6566 Filed 3–24–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Hovenweep National Monument, Blanding, UT

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary object in the possession and control of the U.S. Department of the Interior, National Park Service, Hovenweep National Monument, Blanding, UT. The human remains and associated funerary object were removed from three sites in Montezuma County, CO, and San Juan County, UT.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the superintendent, Hovenweep National Monument.

A detailed assessment of the human remains was made by Hovenweep National Monument professional staff in consultation with representatives of the

Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; Ohkay Owingeh, New Mexico (formerly the Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Zuni Tribe of the Zuni Reservation, New Mexico. The Jicarilla Apache Nation, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; and Ysleta del Sur Pueblo of Texas were contacted for consultation purposes but did not attend the consultation meetings.

In 1953, human remains representing a minimum of three individuals were removed from an unspecified site, in San Juan County, UT. The human remains were discovered by a seasonal park ranger in a weathering midden 1/2 mile south of the Square Tower Group, which consists of five Pueblo II (A.D. 900–1150) – Pueblo III (A.D. 1150–1300) period complexes. No known individuals were identified. The associated funerary object is a crescent shaped cracked wood object with one polished end.

In 1975, following unauthorized disturbance by a pothunter, human remains representing a minimum of one individual were removed from an unspecified site in the Goodman Point Unit, in Montezuma County, CO, by a park employee. The human remains may be associated with Goodman Point Pueblo, which was likely occupied during the Pueblo III period (A.D. 1150–1300). No known individual was identified. No associated funerary objects are present.

In 1976, human remains representing a minimum of one individual were removed from the "Wickiup 1" site, in San Juan County, UT, by San Jose State University. The site dates from the Basketmaker III (A.D. 450–700) through the Pueblo III (A.D. 1150–1300) periods. No known individual was identified. No associated funerary objects are present.

Hovenweep National Monument has determined that, due to a lack of contextual information, there is not sufficient evidence to support a precise cultural affiliation determination for the human remains and associated funerary object.

Officials of Hovenweep National Monument have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of five individuals of Native American ancestry. Officials of Hovenweep National Monument also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the object described above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of Hovenweep National Monument have determined that, pursuant to 25 U.S.C. 3001 (2), a relationship of shared group identity cannot reasonably be traced between the Native American human remains and associated funerary object and any present-day Indian tribe.

The Native American Graves Protection and Repatriation Review Committee (Review Committee) is responsible for recommending specific actions for disposition of culturally unidentifiable human remains. In February 2009, Hovenweep National Monument requested that the Review Committee recommend disposition of the culturally unidentifiable human remains to the Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Zia, New Mexico; and Zuni Tribe of the Zuni Reservation, New Mexico based on geographic proximity. The Review Committee considered the proposal at its May 23–24, 2009, meeting, and recommended disposition of the human remains to the Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Zia, New Mexico; and Zuni Tribe of the Zuni Reservation, New Mexico. The National Park Service intends to convey the associated funerary object to the tribes pursuant to 16 U.S.C. 18f–2.

A September 16, 2009, letter from the Designated Federal Officer, writing on behalf of the Secretary of the Interior, transmitted the authorization for the park to effect disposition of the physical remains of the culturally unidentifiable individuals to the four Indian tribes listed above contingent on the publication of a Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary object should contact Coralee S. Hays, superintendent, Hovenweep National Monument, McElmo Route, Cortez, CO 81321, telephone (970) 562–4282, before April 26, 2010. Disposition of the human remains to the Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Zia, New Mexico; and Zuni Tribe of the Zuni Reservation, New Mexico may proceed after that date if no additional claimants come forward.

Hovenweep National Monument is responsible for notifying the Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Ohkay Owingeh, New Mexico (formerly the Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: January 26, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–6564 Filed 3–24–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Riverside Metropolitan Museum, Riverside, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the Riverside Metropolitan Museum, Riverside, CA. The human remains and associated funerary objects were removed from San Diego County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the Riverside Metropolitan Museum professional staff in consultation with the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueño Mission Indians of the Campo Indian Reservation, California; Ewiiaapaayp Band of Kumeyaay Indians, California; Iipay Nation of Santa Ysabel, California; Inaja Band of Diegueño Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueño Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueño Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueño Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueño Mission Indians of California; Sycuan Band of the Kumeyaay Nation; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California.

At an unknown date, human remains representing a minimum of two individuals were removed from an unknown cremation site in the Mason Valley, San Diego County, CA. In 1966, the Riverside Metropolitan Museum purchased the human remains from Fred Bates of Riverside, CA. No known individuals were identified. The 88 associated funerary objects are 1 stone mano, 6 bone awls, 59 shell beads, 1 burnt fiber, 4 metal items, 7 stone artifacts, 4 shells, 3 stone beads, 2 worked wood artifacts, and 1 pipe fragment.

It was determined through collections research and the geographic location that the human remains and associated funerary objects are of Kumeyaay/Diegueno origin. Museum records indicate "Indian Cremation Remains." The Mason Valley is now divided into San Diego and Imperial Counties, as well as Baja Norte. While the nation of original inhabitants has been called Southern Diegueno, Diegueno-Kamia, Ipai-Tipai and Mission Indians, the tribes prefer to be called Kumeyaay. The Kumeyaay are a federation of autonomous, self-governing bands, that have clearly defined territories. Descendants of the Kumeyaay are represented by the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueño Mission Indians of the Campo Indian Reservation, California; Ewiiaapaayp Band of Kumeyaay Indians, California; Iipay Nation of Santa Ysabel, California; Inaja Band of Diegueño Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueño Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueño Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueño Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueño Mission Indians of California; Sycuan Band of the Kumeyaay Nation; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California.

Officials of the Riverside Metropolitan Museum have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent two individuals of Native American ancestry. Officials of the Riverside Metropolitan Museum also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 88 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Riverside Metropolitan Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueño Mission Indians of the Campo Indian Reservation, California; Ewiiaapaayp Band of Kumeyaay Indians, California; Iipay Nation of Santa Ysabel, California; Inaja Band of Diegueño Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueño Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueño Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueño Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueño Mission Indians of California; Sycuan Band of the Kumeyaay Nation; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Ennette Morton, Museum Director, Riverside Metropolitan Museum, 3580 Mission Inn Ave., Riverside, CA 92501, telephone (951) 826–5273, before April 26, 2010. Repatriation of the human remains and associated funerary objects to the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueño Mission Indians of the Campo Indian Reservation, California; Ewiiaapaayp Band of Kumeyaay Indians, California; Iipay Nation of Santa Ysabel, California; Inaja Band of Diegueño Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueño Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueño Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueño Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueño Mission Indians of California; Sycuan Band of the Kumeyaay Nation; and/or Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California may proceed after that date if no additional claimants come forward.

The Riverside Metropolitan Museum is responsible for notifying the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueño Mission Indians of the Campo Indian Reservation, California; Ewiiaapaayp Band of Kumeyaay Indians, California; Iipay Nation of Santa Ysabel, California; Inaja Band of Diegueño Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueño Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueo Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueño Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueño Mission Indians of California; Sycuan Band of the Kumeyaay Nation; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California, and the Kumeyaay Cultural Repatriation Committee, a non-Federally recognized Indian group, that this notice has been published.

Dated: March 2, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–6561 Filed 3–24–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Pierce College District, Lakewood, WA, and Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the control of the Pierce College District, Lakewood, WA, and in the physical custody of the Thomas Burke Memorial Washington State Museum (Burke Museum), University of Washington, Seattle, WA. The human remains were most likely removed from Gig Harbor, Pierce County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Pierce College professional staff in consultation with representatives of the Burke Museum and the Puyallup Tribe of the Puyallup Reservation, Washington.

During 1973, human remains representing a minimum of two individuals were most likely removed from archeological site 45–PI–13 (Minter II), Gig Harbor, in Pierce County, WA, by Dale McGinnis. No known individuals were identified. No associated funerary objects are present.

The human remains are from an unspecified excavation and were found in a box labeled "Faunal Midden Remains." Initially, they were determined to be culturally unidentifiable, based on lack of provenience, but additional information was put forward by the Puyallup Tribe and other sources, the preponderance of the evidence now supports a cultural affiliation for the human remains with the Puyallup Tribe.

One of the additional sources was Mike Avey, a former Anthropology Department Chair at Pierce College Fort Steilacoom. In 2006, he stated that the human remains might be from the Minter Bay excavation by Dale McGinnis. There is a dual numbering system present on the remains. It is believed that these human remains initially were numbered while on loan to the University of Oregon, and then were numbered by Pierce College upon their return, as this dual numbering system does not match any of the other archeological collections held by Pierce College. Therefore, the Pierce College District reasonably believes the human remains were removed from the Minter site. The home of the Minter people is an area within the historically and ethnographically documented territory of the Puyallup Tribe. This area has long been occupied by the Shotlemamish, a Southern Lushootseed speaking group, whose descendants are members of the Puyallup Tribe of the Puyallup Reservation, Washington.

Officials of the Pierce College District have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of two individuals of Native American ancestry. Officials of the Pierce College District also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Puyallup Tribe of the Puyallup Reservation, Washington.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Chris MacKersie, District Director of Safety & Security and Assistant Director of Facilities, Pierce College District, 9401 Farwest Dr. SW, Lakewood, WA 98498, telephone (253) 912–3655, before April 26, 2010. Repatriation of the human remains to the Puyallup Tribe of the Puyallup Reservation, Washington may proceed after that date if no additional claimants come forward.

Pierce College District is responsible for notifying the Puyallup Tribe of the Puyallup Reservation, Washington that this notice has been published.

Dated: March 3, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–6577 Filed 3–24–10; 8:45 am]

BILLING CODE 4312–50–S

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–707]

In the Matter of: Certain Dynamic Random Access Memory Semiconductors and Products Containing Same, Including Memory Modules; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 19, 2010, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Infineon Technologies AG of Germany and Infineon Technologies North America Corp. of Milpitas, California. An amendment to the complaint was filed on March 12, 2010. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain dynamic random access memory semiconductors and products containing same, including memory modules, by reason of infringement of certain claims of U.S. Patent Nos. 5,480,051; 5,422,309; 5,397,664; and 7,071,074. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the

Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Juan S. Cockburn, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2572.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2009).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on March 18, 2010, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain dynamic random access memory semiconductors or products containing the same, including memory modules that infringe one or more of claims 1–16 of U.S. Patent No. 5,480,051; claims 1–19 of U.S. Patent No. 5,422,309; claims 6–9 and 11 of U.S. Patent No. 5,397,664; and claims 1–20 of U.S. Patent No. 7,071,074, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Infineon Technologies AG, Am Campeon 1–12, D–85579 Neubiberg, Germany.

Infineon Technologies North America Corp., 640 N. McCarthy Blvd., Milpitas, CA 95035.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Elpida Memory Inc., Sumitomo Seimei Yaesu Bldg. 3F, 2–1 Yaesu 2-chome, Chuo-ku, Tokyo, Japan.

Elpida Memory (USA) Inc., 1175 Sonora Ct., Sunnyvale, CA 94086.

Rexchip Electronics Corporation, No. 429–1, Sanfong Rd., Houli Township, Taichung County, Central Taiwan Science Park, Taiwan.

Kingston Technology Company Inc., 17600 Newhope Street, Fountain Valley, CA 92708.

Kingston Technology (Shanghai) Co. Ltd., No. 1, Yinglun Road, Pudong New District, Shanghai, Shanghai 200131, China.

Kingston Technology Far East Co. Ltd., No. 1–5, Li-Hsin Road, I, Science Based, Industrial Park, Hsin-Chu, Taiwan.

Kingston Technology Far East (M) Sdn. Bhd., Plot 111–B Bayan Lepas Industrial Park, Lebuhraya Kampung Jawa, Bayan Lepas, Penang 11900, Malaysia.

Payton Technology Corp., 17665 Newhope St., Ste B, Fountain Valley, CA 92708.

A-Data Technology Co., Ltd., 18F., No. 258, Lian Cheng Rd., Chung Ho City, 235 Taipei, Taiwan.

A-Data Technology (USA) Co. Ltd., 17101 Gale Ave., Hacienda Height, CA 91745.

Apacer Technology, Inc., 4F, 75, Sec. 1, Xintai 5th Rd., Xizhi City, 221 Taipei County, Taiwan.

Apacer Memory America Inc., 386 Fairview Way, Suite 102, Milpitas, CA 95035.

Buffalo Inc., 15, Shibata hondori 4-chome, Minami-ku, Nagoya, 457–8520, Japan.

Buffalo Technology (USA), Inc., 11100 Metric Boulevard, Suite 750, Austin, TX 78758.

Corsair Memory, 46221 Landing Parkway, Fremont, CA 94538.

Corsair Memory (Taiwan), A–1, 5th Floor, 5 Hangsiang Road, Dayuan Township, Tao Yuan County 33747, Taiwan.

Mushkin Inc., 317 Inverness Way South, Suite 130, Englewood, CO 80112.

Mushkin APAC, B–13–9, Megan Avenue II, No. 12, Jalan Yap Kwan Seng, 50450 Kuala Lumpur, Malaysia.

Transcend Information Inc., No. 70, XingZhong Rd., NeiHu Dist., Taipei, Taiwan.

Transcend USA, 1645 North Brian Street, Orange, CA 92867.

(c) The Commission investigative attorney, party to this investigation, is Juan S. Cockburn, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: March 22, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–6617 Filed 3–24–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–437 and 731–TA–1060–1061 (Review)]

Carbazole Violet Pigment 23 From China and India

AGENCY: United States International Trade Commission.

ACTION: Scheduling of expedited five-year reviews concerning the countervailing duty order on carbazole violet pigment 23 from India and the antidumping duty orders on carbazole violet pigment 23 from China and India.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the countervailing duty order on carbazole violet pigment 23 from India and the antidumping duty orders on carbazole violet pigment 23 from China and India would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B). For further information concerning the conduct of these reviews

and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* February 5, 2010.

FOR FURTHER INFORMATION CONTACT: Cynthia Trainor (202–205–3354), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov).* The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On February 5, 2010, the Commission determined that the domestic interested party group response to its notice of institution (74 FR 56663 November 2, 2009) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.[1] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act.

Staff report. A staff report containing information concerning the subject matter of the reviews will be placed in the nonpublic record on April 8, 2010, and made available to persons on the Administrative Protective Order service list for these reviews. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions. As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the reviews may file written comments with the Secretary on what determinations the Commission should reach in the reviews. Comments are due on or before April 13, 2010 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by April 13, 2010. However, should the Department of Commerce extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: March 18, 2010.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–6618 Filed 3–24–10; 8:45 am]

BILLING CODE 7020–02–P

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

[2] The Commission has found the responses submitted by Nation Ford Chemical Co. and Sun Chemical Corp. to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1058 (Review)]

Wooden Bedroom Furniture From China

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determination to conduct a full five-year review concerning the antidumping duty order on wooden bedroom furniture from China.

SUMMARY: The Commission hereby gives notice that it will proceed with a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty order on wooden bedroom furniture from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the review will be established and announced at a later date. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* March 8, 2010.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov).* The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On March 8, 2010, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(5) of the Act. The Commission found that the domestic interested party group response to its notice of institution (74 FR 62817, December 1, 2009) was adequate and the respondent interested party group

response was inadequate.[1] The Commission also found that other circumstances warranted conducting a full review. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: March 19, 2010.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–6622 Filed 3–24–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–631]

Enforcement Proceeding; In the Matter of Certain Liquid Crystal Display Devices and Products Containing the Same; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Enforcement Proceeding; Termination of the Enforcement Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 29) of the presiding administrative law judge ("ALJ") terminating the above-captioned enforcement proceeding based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this enforcement proceeding are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this enforcement proceeding may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this enforcement proceeding on December 18, 2009, based on a complaint filed by Samsung Electronics Co., Ltd. ("Samsung") of Korea. 74 FR 67248. The complaint alleges violations of the limited exclusion order and cease and desist orders issued at the conclusion of the underlying investigation, where the Commission found a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. **1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain liquid crystal display devices and products containing the same by reason of infringement of certain claims of U.S. Patent No. 6,771,344. The Commission's notice of enforcement proceeding named the following respondents: Sharp Corporation of Japan; Sharp Electronics Corporation of Mahwah, New Jersey; and Sharp Electronics Manufacturing, Company of America, Inc. of San Diego, California (collectively, "Sharp").

On February 12, 2010, Samsung and Sharp jointly moved to terminate the enforcement proceeding on the basis of a settlement agreement. No party opposed the motion.

The ALJ issued the subject ID on March 5, 2010, granting the motion for termination. He found that the motion for termination satisfies Commission rule 210.21(b). He further found, pursuant to Commission rule 210.50(b)(2), that termination of this enforcement proceeding by settlement agreement is in the public interest. No party petitioned for review of the ID. The Commission has determined not to review the ID, and the enforcement proceeding is terminated.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.21 and 210.42(h) of the Commission's Rules of Practice and Procedure (19 CFR 210.21, 210.42(h).

By order of the Commission.

Issued: March 19, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–6620 Filed 3–24–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–702]

In the Matter of: Certain Liquid Crystal Display Modules and Products Containing the Same, and Methods for Making the Same; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 3) of the presiding administrative law judge ("ALJ") terminating the above-captioned investigation based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on February 10, 2010, based on a complaint filed by Sharp Corporation ("Sharp") of Japan. 75 FR 6705–06 (Feb. 10, 2010). The complaint, as amended and supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. **1337, in the importation into the United States, the

[1] Commissioner Daniel R. Pearson and Commissioner Charlotte R. Lane found that the respondent interested party group response was adequate.

sale for importation, and the sale within the United States after importation of certain liquid crystal display modules, products containing the same, and methods for making the same by reason of infringement of certain claims of U.S. Patent Nos. 7,379,140; 6,141,075; 7,283,192; 5,670,994; and 7,408,588. The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named the following respondents: Samsung Electronics Co., Ltd. of Korea; Samsung Electronics America, Inc. of Ridgefield Park, New Jersey; and Samsung Semiconductor, Inc. of San Jose, California.

On February 12, 2010, Sharp moved to terminate the investigation on the basis of a settlement agreement. The Commission investigative attorney filed a response in support of the motion, and no party opposed the motion.

The ALJ issued the subject ID on February 26, 2010, granting the motion for termination. He found that the motion for termination satisfies Commission rule 210.21(b). He further found, pursuant to Commission rule 210.50(b)(2), that termination of this investigation by settlement agreement is in the public interest. No party petitioned for review of the ID. The Commission has determined not to review the ID, and the investigation is terminated.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in sections 210.21 and 210.42(h) of the Commission's Rules of Practice and Procedure, 19 CFR 210.21, 210.42(h).

Issued: March 19, 2010.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–6621 Filed 3–24–10; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0014]

Advisory Committee on Construction Safety and Health (ACCSH)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Announcement of a meeting of the Advisory Committee on Construction Safety and Health (ACCSH) and ACCSH Work Group meetings.

SUMMARY: ACCSH will meet April 14 and 16, 2010, in Houston, TX. In conjunction with ACCSH's meeting, its Work Groups will meet April 12 and 13, 2010.

DATES: *ACCSH:* ACCSH will meet from 8 a.m. to noon, Wednesday, April 14, 2010, and from 8 a.m. to noon, Friday, April 16, 2010.

ACCSH Work Groups: ACCSH Work Groups will meet Monday, April 12, and Tuesday, April 13, 2010. (For Work Group meeting times, see the Work Group Schedule information in the **SUPPLEMENTARY INFORMATION** section of this notice.)

Submission of comments, requests to speak, speaker presentations, and requests for special accommodation: Comments, requests to address the ACCSH meeting, written or electronic speaker presentations, and requests for special accommodations for the ACCSH and ACCSH Work Group meetings must be submitted (postmarked, sent, transmitted) by April 2, 2010.

ADDRESSES:

ACCSH and ACCSH Work Group: ACCSH and ACCSH Work Group meetings will be held at the Crowne Plaza Houston Downtown, 1700 Smith Street, Houston, TX 77002; telephone (713) 739–8800. Please check the hotel front desk or meeting board for room locations.

Submission of comments, requests to speak, and speaker presentations: Interested persons may submit comments, requests to address the ACCSH meeting, and speaker presentations using one of the following methods:

Electronically: You may submit materials, including attachments, electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the on-line instructions for submissions or comments.

Facsimile (Fax): If your submission, including attachments, does not exceed 10 pages, you may fax it to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: Submit three copies of your submissions to the OSHA Docket Office, Docket No. OSHA–2010–0014, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (TTY (877) 889–5627). Deliveries (hand deliveries, express mail, messenger, and courier service) are accepted during the Department of Labor's and OSHA Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., *e.t.,* weekdays.

Requests for special accommodations: Submit requests for special accommodations to Ms. Veneta Chatmon, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999; e-mail *chatmon.veneta@dol.gov.*

Instructions: All submissions, requests to speak, speaker presentations, and requests for special accommodations must include the Agency name and the docket number for this meeting (Docket No. OSHA–2010–0014). Because of security-related procedures, submissions by regular mail may experience significant delays. For information about security procedures for submitting materials by hand delivery, express mail, messenger, or courier service, contact the OSHA Docket Office.

Comments, speaker presentations and requests to speak, including personal information, are placed in the public docket without change and may be available online. Therefore, OSHA cautions you about submitting certain personal information such as social security numbers and birthdates. For further information on submitting comments, requests to speak, speaker presentations, and requests for public accommodation, see the Public Participation information in the **SUPPLEMENTARY INFORMATION** section.

To read or download documents in the public docket for this ACCSH meeting, go to Docket No. OSHA–2010–0014 at *http://www.regulations.gov.* All documents in the public docket are listed in the *http://www.regulations.gov* index; however, some documents (*e.g.,* copyrighted material) are not available to read on line or download from that webpage. All documents, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Please contact the OSHA Docket Office for assistance making submissions to or obtaining materials from the public docket.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Ms. Jennifer Ashley, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–1999.

For general information about ACCSH and ACCSH meetings: Mr. Michael Buchet, OSHA, Directorate of Construction, Room N–3468, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2020; e-mail: *buchet.michael@dol.gov.*

SUPPLEMENTARY INFORMATION:

ACCSH Meeting

ACCSH will meet Wednesday, April 14, 2010, and Friday, April 16, 2010, in Houston, TX. The meeting is open to the public.

ACCSH is authorized to advise the Secretary of Labor and Assistant Secretary of Labor for Occupational Safety and Health in the formulation of standards affecting the construction industry and on policy matters arising in the administration of the safety and health provisions of the Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 3701 *et seq.*) and the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*). (See also 29 CFR 1911.10 and 1912.3).

The agenda topics for this meeting include:

- *Welcome/Remarks from the Office of the Assistant Secretary;*
- *Remarks from the Directorate of Construction;*
- *Education and Training Directorate Overview;*
- *Cooperative and State Program Overview;*
- *Stimulus Funded Work Data Overview;*
- *NIOSH Construction Update;*
- *Work Group Reports, Work Group and Committee Administration; and*
- *Public Comment Period.*

ACCSH meetings are transcribed and detailed minutes of the meetings are prepared. The transcript and minutes are placed in the public docket for the meeting. The docket also includes ACCSH Work Group reports, speaker presentations, comments, and other materials and requests submitted to the Committee.

ACCSH Work Group Meetings

In conjunction with the ACCSH meeting, the following ACCSH Work Groups will meet April 12–13, 2010. Check hotel front desk or meeting board for meeting room locations:

Monday, April 12

- Residential Fall Protection—Noon to 1:15 p.m.;
- Power Fastening Tools (Nailguns)—1:30 to 2:45 p.m.; and
- Silica and other construction health hazards—3 to 4:15 p.m.

Tuesday, April 13

- Prevention By Design—8 to 9:15 a.m.;
- Green Jobs in Construction—9:30 to 10:45 a.m.;
- Multilingual Issues in Construction—11 a.m. to 12:15 p.m.;
- Diversity—Women in Construction—1:15 to 2:30 p.m.; and
- Education and Training (OTI)—2:45 to 4 p.m.

For additional information on ACCSH Work Group meetings or participating in them, please contact Mr. Buchet at the address above or look on the ACCSH page on OSHA's webpage at *http://www.osha.gov.*

Public Participation

ACCSH Meetings and ACCSH Work Group Meetings: ACCSH and ACCSH Work Group meetings are open to the public. Individuals needing special accommodations for ACCSH or ACCSH Work Group meeting access please contact Ms. Chatmon (*see* **ADDRESSES** section).

Submission of written comments, requests to address ACCSH, speaker presentations, and requests for special accommodations: Interested persons may submit comments, requests to address ACCSH, presentations, and requests for special accommodations (1) electronically, (2) by fax, or (3) by hard copy (mail, hand delivery, express mail, messenger, and courier). All submissions must include the docket number for this ACCSH meeting (Docket No. OSHA–2010–0014). Individuals who want to address ACCSH at the meeting must submit their requests and written or electronic presentations (*e.g.,* PowerPoint) by April 2, 2010. The request must state the amount of time desired to speak, the interest the presenter represents (*e.g.,* businesses, organizations, affiliations), if any, and a brief outline of the presentation. PowerPoint presentations and other materials must be compatible with PowerPoint 2003 and other Microsoft Office 2003 formats.

Alternately at the ACCSH meeting, individuals may also request to address ACCSH by signing the public comment request sheet and listing the interests they represent, if any, and the topic(s) to be addressed. In addition, they must provide 20 hard copies of any materials, written or electronic, that they plan to present to ACCSH.

Requests to address the Committee may be granted at the ACCSH Chair's discretion and as time and circumstances permit.

Comments, requests to address ACCSH, and speaker presentations are included without change in the meeting record and may be made available online at *http://www.regulations.gov.* Therefore, OSHA cautions interested parties about submitting certain personal information such as birthdates and social security numbers.

Access to the record of ACCSH meetings, including Work Group reports: To read or download the record of this ACCSH meeting including transcript, minutes, Work Group reports and other submissions, go to Docket No. OSHA–2010–0014 at *http://www.regulations.gov.* The meeting record and all submissions for this meeting are listed in the *http://www.regulations.gov* index; however, some documents (*e.g.,* copyrighted materials) are not publicly available through the webpage. The record and all submissions, including materials not available through *http://www.regulations.gov* are available for inspection and copying in the OSHA Docket Office (see **ADDRESSES**).

Authority and Signature

David Michaels, PhD MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by section 7 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656), section 107 of the Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 3704), the Federal Advisory Committee Act (5 U.S.C. App), 29 CFR Parts 1911 and 1912, 41 CFR Part 102, and Secretary of Labor's Order No. 5–2007 (72 FR 31160).

Signed at Washington, DC this 19 day of March 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2010–6597 Filed 3–24–10; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (10–033)]

NASA Advisory Council; Science Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: The National Aeronautics and Space Administration (NASA) announces a meeting of the Science Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. The Meeting will be held for the purpose of soliciting from the scientific community and other persons scientific and technical information relevant to program planning.

DATES: Tuesday, April 20, 8:30 a.m. to 5 p.m., and Wednesday, April 21, 2010, 8:30 a.m. to 3 p.m., EDT.

ADDRESSES: NASA Goddard Space Flight Center, Building 1, Room E100E,

8800 Greenbelt Road, Greenbelt, Maryland 20771.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–4452, fax (202) 358–4118, or *mnorris@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—Science Mission Directorate Overview and Program Status

—Discussion of 2010 Science Plan

—Discussion of Subcommittees

—Discussion of Earth & Space Science Utilization of the International Space Station

—Discussion of Technology Programs

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Public attendees with U.S. citizenship must provide to NASA the following information: Full name; gender; date/place of birth; social security number, employer/affiliation information (name of institution, title/position, address, telephone, e-mail address); and the title/position of attendee at least 4 working days in advance of the meeting by contacting Marian Norris via e-mail at *mnorris@nasa.gov* or by telephone at (202) 358–4452. Public attendees that are Foreign Nationals from non-designated countries must provide to NASA the following information: Full name; gender; date/place of birth; citizenship; social security number, green card information (resident alien number, expiration date); visa information (number, type, expiration date); passport information (number, country of *issue,* expiration date); employer/affiliation information (name of institution, title/position, address, country of employer, telephone, e-mail address); and the title/position of attendee no less than 15 working days prior to the meeting by contacting Marian Norris via e-mail at *mnorris@nasa.gov* or by telephone at (202) 358–4452.

Public attendees will be required to sign a register and to comply with NASA security requirements, including the presentation of a valid State or Federal issued picture ID or passport, before receiving an access badge.

March 18, 2010.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2010–6591 Filed 3–24–10; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–255; NRC–2010–0127]

Entergy Nuclear Operations, Inc., Palisades Nuclear Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an Exemption, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 73.5, "Specific exemptions," from the implementation date for certain new requirements of 10 CFR Part 73, "Physical protection of plants and materials," for Facility Operating License No. DPR–20, issued to Entergy Nuclear Operations, LLC (ENO) (the licensee), for operation of the Palisades Nuclear Plant (PNP), located in Van Buren County, Michigan. In accordance with 10 CFR 51.21, the NRC prepared an environmental assessment documenting its finding. The NRC concluded that the proposed actions will have no significant environmental impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt Palisades Nuclear Plant from the required implementation date of March 31, 2010, for several new requirements of 10 CFR Part 73. Specifically, PNP would be granted an exemption from being in full compliance with certain new requirements contained in 10 CFR 73.55 by the March 31, 2010, deadline. ENO has proposed an alternate full compliance implementation date of August 31, 2010, approximately 5 months beyond the date required by 10 CFR Part 73. The proposed action, an extension of the schedule for completion of certain actions required by the revised 10 CFR Part 73, does not involve any physical changes to the reactor, fuel, plant structures, support structures, water, or land at the Palisades site.

The proposed action is in accordance with the licensee's application dated January 14, 2010, as supplemented by letter dated February 16, 2010.

The Need for the Proposed Action

The proposed action is needed to provide the licensee with additional time required for completion of significant physical modifications to comply with the new 10 CFR 73 rule requirements. While some of the work scope required by the 10 CFR 73 rule change requirements will be completed by March 31, 2010, some modifications will require additional time to complete.

Environmental Impacts of the Proposed Action

The NRC has completed its environmental assessment of the proposed exemption. The staff has concluded that the proposed action to extend the implementation deadline would not significantly affect plant safety and would not have a significant adverse effect on the probability of an accident occurring.

The proposed action would not result in an increased radiological hazard beyond those previously analyzed in the environmental assessment and findings of no significant impact made by the Commission in promulgating its revisions to 10 CFR Part 73 as discussed in a **Federal Register** notice dated March 27, 2009 (74 FR 13926). There will be no change to radioactive effluents that affect radiation exposures to plant workers and members of the public. Therefore, no changes or different types of radiological impacts are expected as a result of the proposed exemption.

The proposed action does not result in changes to land use or water use, or result in changes to the quality or quantity of non-radiological effluents. No changes to the National Pollution Discharge Elimination System permit are needed. No effects on the aquatic or terrestrial habitat in the vicinity of the plant, or to threatened, endangered, or protected species under the Endangered Species Act, or impacts to essential fish habitat covered by the Magnuson-Stevens Act are expected. There are no impacts to the air or ambient air quality.

There are no impacts to historical and cultural resources. There would be no impact to socioeconomic resources. Therefore, no changes to or different types of non-radiological environmental impacts are expected as a result of the proposed exemption.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action. In addition, in promulgating its revisions to 10 CFR Part 73, the Commission prepared an environmental assessment and published a finding of no significant impact [Part 73, Power

Reactor Security Requirements, 74 FR 13926 (March 27, 2009)].

The licensee currently maintains a security system acceptable to the NRC and will continue to provide acceptable physical protection of Palisades in lieu of the new requirements in 10 CFR Part 73. Therefore, the extension of the implementation date of the new requirements of 10 CFR Part 73 to August 31, 2010, would not have any significant environmental impacts.

The NRC staff's safety evaluation will be provided in the exemption that will be issued as part of the letter to the licensee approving the exemption to the regulation, if granted.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed actions, the NRC staff considered denial of the proposed actions (*i.e.,* the "no-action" alternative). Denial of the exemption request would result in no change in current environmental impacts. If the proposed action was denied, the licensee would have to comply with the March 31, 2010, implementation deadline. The environmental impacts of the proposed exemption and the "no action" alternative are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those considered in the Final Environmental Statement for the Palisades, dated February 1978, supplemented by NUREG–1437, Supplement 27, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants," dated October 12, 2006.

Agencies and Persons Consulted

In accordance with its stated policy, March 8, 2010, the NRC staff consulted with the Michigan State official, Mr. Ken Yale, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated January 14, 2010, as supplemented by letter dated February 16, 2010. Portions of January 14, 2010, and February 16, 2010, submittals contain security related information and, accordingly, are not available to the public. Other parts of these documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Room O–1F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible electronically from the Agencywide Document Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site: *http://www.nrc.gov/reading-rm/adams.html.*

Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or send an e-mail to *pdr.resource@nrc.gov.*

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

For the Nuclear Regulatory Commission.

Mahesh Chawla,

Project Manager, Plant Licensing Branch LPL III–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–6634 Filed 3–24–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–012 and 52–013; NRC–2010–0126]

STP Nuclear Operating Company; Notice of Availability of the Draft Environmental Impact Statement for Combined Licenses for Units 3 And 4 at the South Texas Project Site

Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) and the U.S. Army Corps of Engineers (Corps), Galveston District, have published "NUREG–1937, Draft Environmental Impact Statement for Combined Licenses (COLs) at the South Texas Project Electric Generating Station Units 3 and 4" (DEIS). The site for the proposed South Texas Project Units 3 and 4 is located in Matagorda County, Texas, along the west bank of the Colorado River. The application for the COLs was submitted by letter dated October 1, 2007, pursuant to 10 CFR Part 52. A notice of receipt and availability of the application, which included the environmental report (ER), was published in the **Federal Register** on October 24, 2007 (72 FR 60394). A notice of acceptance for docketing of the COL application was published in the **Federal Register** on December 5, 2007 (72 FR 68597). A notice of intent to prepare an environmental impact statement (EIS) and to conduct the scoping process was published in the **Federal Register** on December 21, 2007 (72 FR 72774).

The purpose of this notice is to inform the public that NUREG–1937 is available for public inspection. The DEIS can be accessed (1) in the U.S. Nuclear Regulatory Commission's (NRC's) Public Document Room (PDR) located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, or (2) from NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html.* The accession number for the DEIS is ML100700576. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the PDR reference staff at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.* In addition, the Bay City Public Library, located at 1100 7th Street, Bay City, Texas, has agreed to make the DEIS available to the public.

The NRC and Corps staff will hold two public meetings to present an overview of the DEIS and to accept public comments on the document on Thursday, May 6, 2010, at the Bay City Civic Center, 201 7th Street, Bay City, Texas. The first meeting will convene at 1:30 p.m. and will continue until 4:30 p.m., as necessary. The second meeting will convene at 7 p.m., with a repeat of the overview portions of the first meeting, and will continue until 10 p.m., as necessary. The meetings will be transcribed and will include: (1) A presentation of the contents of the DEIS; and (2) the opportunity for interested government agencies, organizations, and individuals to provide comments on the draft report. Additionally, the NRC and Corps staff will host informal discussions one hour before the start of each meeting during which members of the public may meet and talk with NRC and Corps staff members. To be considered, comments must be provided during the transcribed public meeting either orally or in writing. No formal comments on the DEIS will be accepted during the informal discussions.

Persons may pre-register to attend or present oral comments at the meeting by contacting Ms. Jessie Muir by telephone at 1–800–368–5642, extension 0491, or by e-mail at *STP.COLAEIS@nrc.gov* no later than April 21, 2010. Members of the public may also register to speak at the meeting within 15 minutes of the start of the meeting. Individual oral comments may be limited by the time available, depending on the number of

persons who register. Members of the public who have not registered may also have an opportunity to speak, if time permits. If special equipment or accommodations are needed to attend or present information at the public meeting, Ms. Jessie Muir should to be contacted no later than April 21, 2010, so that the NRC staff can determine whether the request can be accommodated.

Members of the public may also submit comments on the DEIS by (1) e-mail, (2) mail, or (3) delivery to the NRC. Comments may also be submitted via email at *STP.COLAEIS@nrc.gov.* Electronic submissions should be sent no later than June 9, 2010. Written comments on the DEIS can be mailed to the Chief, Rulemaking, Directives, and Editing Branch, Division of Administrative Services, Office of Administration, Mailstop T–6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** Notice. To be considered, written comments should be postmarked by June 9, 2010. Comments may also be delivered to Room T–6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. during Federal workdays.

FOR FURTHER INFORMATION CONTACT: Ms. Jessie Muir, Environmental Projects Branch 2, Division of Site and Environmental Reviews, Office of New Reactors, U.S. Nuclear Regulatory Commission, Mail Stop T7–E30, Washington, DC 20555–0001. Ms. Muir may also be contacted at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 19th day of March 2010.

For the Nuclear Regulatory Commission.

Scott Flanders,

Director, Division of Site and Environmental Reviews, Office of New Reactors.

[FR Doc. 2010–6642 Filed 3–24–10; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2010–27, CP2010–28 and CP2010–29; Order No. 426]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add three Global Expedited Package Services 2 contracts to the Competitive Product List. The Postal Service has also filed a related contract. This notice addresses procedural steps associated with these filings.

DATES: Comments are due: March 29, 2010.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on alternatives to electronic filing.

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

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

On March 18, 2010, the Postal Service filed a notice announcing that it has entered into three additional Global Expedited Package Services 2 (GEPS 2) contracts.[1] The Postal Service believes the instant contracts are functionally equivalent to previously submitted GEPS 2 contracts, and are supported by Governors' Decision No. 08–7, attached to the Notice and originally filed in Docket No. CP2008–4. *Id.* at 1, Attachment 3. The Notice also explains that Order No. 86, which established GEPS 1 as a product, also authorized functionally equivalent agreements to be included within the product, provided that they meet the requirements of 39 U.S.C. 3633. *Id.* at 1. In Order No. 290, the Commission approved the GEPS 2 product.[2]

The instant contracts. The Postal Service filed the instant contracts pursuant to 39 CFR 3015.5. In addition, the Postal Service contends that each contract is in accordance with Order No. 86. The term of each contract is 1 year from the date the Postal Service notifies the customer that all necessary regulatory approvals have been received. Notice at 2–3.

In support of its Notice, the Postal Service filed four attachments as follows:

1. Attachments 1A, 1B and 1C—redacted copies of the three contracts and applicable annexes;

2. Attachments 2A, 2B and 2C—a certified statement required by 39 CFR 3015.5(c)(2) for each of the three contracts;

3. Attachment 3—a redacted copy of Governors' Decision No. 08–7 which establishes prices and classifications for GEPS contracts, a description of applicable GEPS contracts, formulas for prices, an analysis and certification of the formulas and certification of the Governors' vote; and

4. Attachment 4—an application for non-public treatment of materials to maintain redacted portions of the contracts and supporting documents under seal.

The Notice advances reasons why the instant GEPS 2 contracts fit within the Mail Classification Schedule language for GEPS 2. The Postal Service identifies customer specific information, general contract terms and other differences that distinguish the instant contracts from the baseline GEPS 2 agreement, all of which are highlighted in the Notice. *Id.* at 3–6. These modifications as described in the Postal Service's Notice apply to each of the instant contracts.

The Postal Service contends that the instant contracts are functionally equivalent to the GEPS 2 contracts filed previously notwithstanding these differences. *Id.* at 6–7.

The Postal Service asserts that several factors demonstrate the contracts' functional equivalence with previous GEPS 2 contracts, including the product being offered, the market in which it is offered, and its cost characteristics. *Id.* at 3. The Postal Service concludes that because the GEPS agreements "incorporate the same cost attributes and methodology, the relevant cost and market characteristics are similar, if not the same..." despite any incidental differences. *Id.* at 6.

The Postal Service contends that its filings demonstrate that each of the new GEPS 2 contracts comply with the requirements of 39 U.S.C. 3633 and is functionally equivalent to previous GEPS 2 contracts. It also requests that the contracts be included within the GEPS 2 product. *Id.* at 7.

II. Notice of Filing

The Commission establishes Docket Nos. CP2010–27, CP2010–28 and CP2010–29 for consideration of matters related to the contracts identified in the Postal Service's Notice.

Interested persons may submit comments on whether the Postal Service's contract is consistent with the policies of 39 U.S.C. 3632, 3622 or 3642.

[1] Notice of United States Postal Service Filing of Three Functionally Equivalent Global Expedited Package Services 2 Negotiated Service Agreements and Application for Non-Public Treatment of Materials Filed Under Seal, March 18, 2010 (Notice).

[2] Docket No. CP2009–50, Order Granting Clarification and Adding Global Expedited Package Services 2 to the Competitive Product List, August 28, 2009 (Order No. 290).

Comments are due no later than March 29, 2010. The public portions of these filings can be accessed via the Commission's Web site *(http://www.prc.gov)*.

The Commission appoints Paul L. Harrington to serve as Public Representative in the captioned proceedings.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. CP2010–27, CP2010–28 and CP2010–29 for consideration of matters raised by the Postal Service's Notice.

2. Comments by interested persons in these proceedings are due no later than March 29, 2010.

3. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as the officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

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

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2010–6643 Filed 3–24–E8; 8:45 am]

BILLING CODE 7710–FW–S

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

NATIONAL ECONOMIC COUNCIL

Commercialization of University Research Request for Information

ACTION: Notice.

SUMMARY: In September 2009, President Obama released his national innovation strategy, which is designed to promote sustainable growth and the creation of quality jobs. Two key parts of this strategy are to increase support for both the fundamental research at our nation's universities and the effective commercialization of promising technologies.

The Federal government supports university-based research for a variety of reasons. Expanding the frontiers of human knowledge is a worthy objective in its own right. Basic research that is not motivated by any particular application can have a transformative impact. As President Obama noted in his National Academy speech, "It was basic research in the photoelectric field that would one day lead to solar panels. It was basic research in physics that would eventually produce the CAT scan. The calculations of today's GPS satellites are based on the equations that Einstein put to paper more than a century ago."

Yet it is often transferring viable research discoveries to the marketplace that can pose the greatest challenge to innovators and entrepreneurs. As a result, the Administration is interested in working with all stakeholders (including universities, companies, Federal research labs, entrepreneurs, investors, and non-profits) to identify ways in which we can increase the economic impact of Federal investment in university R&D and the innovations being fostered in Federal and private proof of concept centers (POCCs). This RFI is designed to collect input from the public on ideas for promoting the commercialization of Federally funded research. The first section of the RFI seeks public comments on how best to encourage commercialization of university research. The second section of the RFI seeks public comments on whether POCCs can be a means of stimulating the commercialization of early-stage technologies by bridging the "valley of death."

Background: Federally-funded research has contributed to economic growth, job creation and improvements in our quality of life. In the information and communications sector, for example, university-based research has played a key role in the development of technologies such as the Internet, electronic design automation, mass storage, speech recognition, parallel computing, computer graphics, and workstations. In the life sciences, university research has led to new tools to diagnose, prevent and treat diseases.

With respect to POCCs, innovative technologies developed at POCCs arise primarily from not-for profit research institutions such as hospitals and foundations as well as from Federal laboratories and the private sector. The Federal Government funds much of this early-stage research and also provides funding and incentives to entrepreneurial businesses to bring new technologies to the marketplace. For example, the NSF Engineering Research Centers Program provides core funds to move fundamental research through proof-of-concept testing and additional incentive funds to speed the translation of research further into the realm of project development in partnership with start-ups and other small businesses. State and local governments also provide resources to promote new business development. Despite these resources, too many technologies fail to cross the "valley of death" of product development between the research laboratory and commercialization by the private sector.

The Administration has already taken a number of steps to promote and encourage the commercialization of federally funded research:

- The President's FY11 budget proposes to double the National Science Foundation's Partnership for Innovation program. This will allow the NSF to provide grants that will increase the engagement of faculty and students across all disciplines in the innovation and entrepreneurship process; increase the impact of the most promising university innovations through commercialization, industry alliances, and start-up formation, and develop a regional community that supports the "innovation ecosystem" around universities.
- On February 24, 2010, led by Commerce Secretary Gary Locke, the Administration organized a forum to explore issues related to commercialization of university research.
- Dr. Francis Collins, Director of the National Institutes of Health, has indicated that translational medicine is one of his top five priorities. For example, NIH is making it easier for academic researchers to move from fundamental research to the creation of assays that can be used to screen hundreds of thousands of candidates for drug development.
- Seven agencies are providing almost $130 million to support an Energy Regional Innovation Cluster in energy efficient building systems design. In addition to funding research, this will provide support for business development, public infrastructure, education, and workforce development.

The National Economic Council and the Office of Science and Technology Policy will use the input from this RFI to shape the Administration's future policy on the commercialization of federally funded research.

RFI Guidelines: Responses to this RFI should be submitted by 11:59 p.m. Eastern Time on April 26, 2010. Responses to this RFI must be delivered electronically as an attachment to an e-mail sent to *NEC_General@who.eop.gov* with the subject line "Commercialization of University Research." Responses to this notice are not offers and cannot be accepted by the Government to form a binding contract or issue a grant. Information obtained as a result of this RFI may be used by the government for program planning on a non-attribution basis. Do not include any information that might be considered proprietary or confidential.

FOR FURTHER INFORMATION CONTACT: Any questions about the content of this RFI should be sent to *NEC_General@who.eop.gov* with the subject line "RFI Questions."

RFI Response Instructions: The White House Office of Science and Technology Policy and the National Economic Council are interested in responses that address one or more of the following topics:

Part I: With Respect to University Research, Promising Practices and Successful Models

What are some promising practices and successful models for fostering commercialization and diffusion of university research? What is the evidence that these approaches are successful? How could these promising practices be more widely adopted? *Examples include, but are not limited to:*

- Business plan competitions
- Coursework, training programs, and experiential learning that give faculty and students the skills they need to become entrepreneurs
- Programs that encourage multidisciplinary collaboration between faculty and students in different disciplines, such as science, engineering, business, and medicine
- Technology transfer and sponsored project offices that can negotiate agreements with companies in a timely fashion, and that have a mandate to maximize the impact of their university's research as opposed to maximizing licensing income
- "Templates" for agreements on issues such as intellectual property, sponsored research, material transfer agreements, and visiting industry fellows that can reduce the time and cost required to commercialize university research and form university-industry partnerships
- Models for promoting open innovation and an intellectual property "commons"
- University-industry collaborations that increase investment in pre-competitive research and development that is beyond the time horizon of any single firm
- University participation in regional economic development initiatives and efforts to strengthen "clusters"
- Supportive university policies such as "industrial leave" that allows faculty members to work for a new or existing company to commercialize their research

Bootstrapping Innovation Ecosystems

Some universities participate in regional innovation "ecosystems" with dense concentrations of venture and angel investors, experienced entrepreneurs and managers, and a mix of large and small firms. These universities also have faculty who have been involved in commercialization of research and entrepreneurship, and can serve as mentors and role models to faculty or students. How can universities and their external partners expand their ability to commercialize research in the absence of these favorable conditions?

Metrics for Success

What are appropriate metrics for evaluating the success or failure of initiatives to promote commercialization of university research?

Changes in Public Policy and Funding

What changes in public policy and research funding should the Obama Administration consider that would promote commercialization of university research? How could existing programs be modified or augmented to encourage commercialization of university research?

Part II: With Respect to POCCs

Underlying Conditions and Infrastructure

- What underlying conditions are necessary to enhance the success of a POCC?
  - How can regions with less significant angel and VC investment cultures support POCCs and start-up business activity? Can current POCC successes transfer to other regions and universities?
  - How important is active participation by strong local business community in a POCC? Describe how you integrate them into the POCC ecosystem?
- How can Federal agencies, research institutions, Federal researchers, and the private sector work together to foster more successful POCCs that accelerate commercialization into the marketplace?
- How can we leverage NSF's and industry's investment in Engineering Research Centers and Industry/University Cooperative Research Centers to speed the development and commercialization of new technology that has already reached the proof-of-concept stage?
- In addition to Federal resources, what existing state, regional or local government funded resources or programs supplement the POCCs in bridging the "valley of death"?
  - Describe any alternative sources of private funding/financing that might be available such as not for profit entities or charitable foundations.

Successful Practices

- What are examples of successful practices?
- What are the key ingredients responsible for this success?
- Is there any evidence that indicates POCCs are an effective mechanism to foster local or regional economic development and job creation (*e.g.* research related to the needs of particular clusters, participating in regional networks, making shared facilities available to local firms, addressing the need for skilled labor in particular sectors)?
- What lessons can be learned from other successful models such as technology-based economic development organizations that support POCCs?
- Describe educational programs associated with POCCs that better prepare students to work in entrepreneurial environments?
- To what extent do interdisciplinary services (legal, accounting, business plan training) contribute to POCCs successes?
- At POCCs, what lessons have been learned regarding: Leadership and team composition, project selection, optimum scale of effort, importance of brick-and-mortar facilities, geographic scope of participation, and multi-agency involvement?

Success Metrics

- How do you define the success of a POCC?
  - What are the relevant inputs, outputs, outcomes, and impacts for success metrics?
  - What is the time period needed to measure success as applied to different types of technologies?
- Would the appropriate success metrics for a POCC affiliated with a university be different than one affiliated with a Federal research lab?

Other Questions

- For those institutions with POCCs, how would you describe what you do and how you do it?
- How can research and development assets supported by the Federal Government be leveraged to support POCCs, such as a multi-agency, multi-disciplinary database of supported research?
- How could such assistance also bolster State and local government programs?
- What other administrative policies/practices should the Administration consider modifying, adopting or

implementing to enhance the success prospects of POCCs, including streamlining reporting requirements?

James Kohlenberger,

Chief of Staff, Office of Science and Technology Policy.

Diana Farrell,

Deputy Assistant to the President for Economic Policy, National Economic Council.

[FR Doc. 2010–6606 Filed 3–24–10; 8:45 am]

BILLING CODE P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61692; File No. SR–OCC–2010–03]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to ETFS Palladium Shares and ETFS Platinum Shares

Correction

In notice document 2010–5914 beginning on page 13169 in the issue of Thursday, March 18, 2010 make the following correction:

On page 13169, in the first column, the docket number is corrected to read as it appears above.

[FR Doc. C1–2010–5914 Filed 3–24–10; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an open meeting on March 30, 2010 at 2 p.m., in the Auditorium, Room L–002, and a closed meeting on March 30, 2010 at 3 p.m.

The subject matter of the March 30, 2010 open meeting will be:

The Commission will hear oral argument in an appeal by vFinance Investments, Inc., a registered broker-dealer (the "Firm"), and Richard Campanella, the Firm's former chief compliance officer (together with the Firm, "Respondents") from the decision of an administrative law judge. The law judge found that the Firm willfully violated Section 17(a) of the Securities Exchange Act of 1934 and Rules 17a–4(b)(4) and 17a–4(j) thereunder, by failing to preserve and promptly produce electronic communications, and that Campanella willfully aided and abetted and caused these violations. The law judge ordered Respondents to cease and desist, censured Campanella, and fined the Firm $100,000 and Campanella $30,000.

The subject matter of the March 30, 2010 closed meeting will be:

Post argument discussion.

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 matter at the closed meeting.

Commissioner Aguilar, as duty officer, voted to consider the item listed for the closed meeting in a closed session.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: March 23, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–6711 Filed 3–23–10; 11:15 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 6930]

Executive Order 11423, as Amended; Notice of Receipt of Application To Amend the Presidential Permit for the Nogales-Mariposa International Border Crossing on the U.S.-Mexico Border

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State hereby gives notice that, on March 12, 2010, it received from the General Services Administration (GSA) an application to amend the Presidential permit that the Department issued in 2005 to the Arizona Department of Transportation for the Nogales-Mariposa port of entry (Mariposa) at Nogales, Arizona, and Nogales, Sonora, Mexico. GSA intends to remodel and expand the existing border crossing. GSA's application to the Department is in keeping with the determination that GSA is generally the appropriate permittee for at-grade (*i.e.,* those not located along the Rio Grande), federally owned border crossings along the U.S.-Mexico border. The Department and GSA agree that an amendment of the existing Presidential permit is required in this case because GSA's project would widen the piercing of the border and would formally establish Mariposa as a border crossing for pedestrians.

According to the application, approximately 45% of the produce consumed in the United States during winter months crosses at Mariposa. In 2008, $12.85 billion of merchandise entered through the crossing, an increase of $8.25 billion over the total for 1995. The inadequacies of the existing facility cause long delays for commercial traffic during peak times. When it opened about 35 years ago, Mariposa was designed to accommodate 450 commercial vehicles per day. Currently, the port processes approximately 1,000 commercial vehicles per day. This figure is expected to increase to 1,730 per day by 2030. Furthermore, Mariposa was not designed to accommodate pedestrians and buses; lack of pedestrian facilities results in pedestrians crossing an active roadway to enter the U.S. facility. Inspection areas are too small to meet production standards, vehicle circulation routes are insufficient to efficiently move traffic, and critical security and operational facilities are poor and lacking. GSA's $199 million project is funded by the American Reinvestment and Recovery Act of 2009 and is a priority project for both GSA and the Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security because of the crossing's importance to trade and its inability to facilitate current traffic flows safely and efficiently.

The Department's jurisdiction over this application is based upon Executive Order 11423 of August 16, 1968, as amended. As provided in E.O. 11423, the Department is circulating this application to relevant federal and state agencies for review and comment. Under E.O. 11423, the Department has the responsibility to determine, taking into account input from these agencies and other stakeholders, whether amending the Presidential permit for this border crossing would be in the U.S. national interest.

DATES: Interested members of the public are invited to submit written comments regarding this application on or before April 29, 2010 to Stewart Tuttle, U.S.-Mexico Border Affairs Coordinator via e-mail at *WHA–BorderAffairs@state.gov* or by mail at Office of Mexican Affairs—Room 3909, Department of State, 2201

C St., NW., Washington, DC 20520. Please note that internal processing often results in delayed delivery of standard mail.

FOR FURTHER INFORMATION CONTACT: Stewart Tuttle, U.S.-Mexico Border Affairs Coordinator via e-mail at *WHA–BorderAffairs@state.gov;* by phone at 202–647–9894; or by mail at Office of Mexican Affairs—Room 3909, Department of State, 2201 C St., NW., Washington, DC 20520. General information about Presidential Permits is available on the Internet at *http://www.state.gov/p/wha/rt/permit/.*

SUPPLEMENTARY INFORMATION: This application and supporting documents are available for review in the Office of Mexican Affairs during normal business hours.

Dated: March 19, 2010.

Alex Lee,

Director, Office of Mexican Affairs, Department of State.

[FR Doc. 2010–6638 Filed 3–24–10; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF STATE

[Public Notice 6929]

Waiver of Restriction on Assistance to the Central Government of Algeria

Pursuant to section 7086(c)(2) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010 (Division F, Pub. L. 111–117) ("the Act"), and Department of State Delegation of Authority Number 245–1, I hereby determine that it is important to the national interest of the United States to waive the requirements of section 7086(c)(1) of the Act with respect to the Government of Algeria, and I hereby waive such restriction.

This determination shall be reported to the Congress, and published in the **Federal Register**.

Dated: March 10, 2010.

Jacob J. Lew,

Deputy Secretary of State for Management and Resources.

[FR Doc. 2010–6641 Filed 3–24–10; 8:45 am]

BILLING CODE 4710–31–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Reallocation of Unused Fiscal Year 2010 Tariff-Rate Quota Volume for Raw Cane Sugar

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice of country-by-country reallocations of the fiscal year (FY) 2010 in-quota quantity of the tariff-rate quota (TRQ) for imported raw cane sugar.

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

ADDRESSES: Inquiries may be mailed or delivered to Leslie O'Connor, Director of Agricultural Affairs, Office of Agricultural Affairs, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Leslie O'Connor, Office of Agricultural Affairs, 202–395–6127.

SUPPLEMENTARY INFORMATION: Pursuant to Additional U.S. Note 5 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTS), the United States maintains TRQs for imports of raw cane and refined sugar.

Section 404(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3601(d)(3)) authorizes the President to allocate the in-quota quantity of a TRQ for any agricultural product among supplying countries or customs areas. The President delegated this authority to the United States Trade Representative under Presidential Proclamation 6763 (60 FR 1007).

On September 29, 2009, the Secretary of Agriculture established the FY 2010 TRQ for imported raw cane sugar at the minimum amount to which the United States committed to pursuant to the World Trade Organization (WTO) Uruguay Round Agreements (1,117,195 metric tons raw value (MTRV)). On October 6, 2009, USTR provided notice of country-by-country allocations of the FY 2010 in-quota quantity of the TRQ for imported raw cane sugar. Based on consultation with quota holders, USTR has determined to reallocate 81,946 MTRV of the original TRQ quantity from those countries that have stated they will be unable to fill their FY 2010 allocated raw cane sugar quantities. USTR is allocating the 81,946 MTRV to the following countries in the amounts specified below:

Country	FY 2010 reallocation
Argentina	3,729
Australia	7,197
Belize	954
Bolivia	694
Brazil	12,574
Colombia	2,081
Costa Rica	1,301
Dominican Republic	15,262
Ecuador	954
El Salvador	2,255
Guatemala	4,162
Guyana	1,041
Honduras	867
India	694
Jamaica	954
Malawi	867
Mozambique	1,127
Nicaragua	1,821
Panama	2,515
Peru	3,555
Philippines	11,706
South Africa	1,994
Swaziland	1,387
Thailand	1,214
Zimbabwe	1,041

These allocations are based on the countries' historical shipments to the United States. The allocations of the raw cane sugar TRQ to countries that are net importers of sugar are conditioned on receipt of the appropriate verifications of origin and certificates for quota eligibility must accompany imports from any country for which an allocation has been provided.

Conversion factor: 1 metric ton = 1.10231125 short tons.

Ronald Kirk,

United States Trade Representative.

[FR Doc. 2010–6599 Filed 3–24–10; 8:45 am]

BILLING CODE 3190–W0–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comments Concerning an Environmental Review of the Proposed Trans-Pacific Partnership Trade Agreement

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Notice of intent to conduct an environmental review of the proposed Trans-Pacific Partnership (TPP) trade agreement and request for comments.

SUMMARY: This publication gives notice that the Office of the United States Trade Representative (USTR), through the Trade Policy Staff Committee (TPSC), is initiating an environmental review of the proposed Trans-Pacific Partnership Trade Agreement (TPP) between the United States and the other countries currently involved in TPP negotiations. The TPSC is requesting written comments from the public on what should be included in the scope of the environmental review, including the potential environmental effects that might flow from the trade agreement and the potential implications for U.S. environmental laws and regulations. The TPSC is also requesting identification of potential

complementarities between trade and environmental objectives such as the promotion of sustainable development. The TPSC also welcomes public views on appropriate methodologies and sources of data for conducting the review. The review will be conducted consistent with the relevant procedures of Executive Order 13141 (64 FR 63169) (Nov. 18, 1999) and its implementing guidelines (65 FR 79442). Persons submitting written comments should provide as much detail as possible on the degree to which the subject matter they propose for inclusion in the review may raise significant environmental issues in the context of the negotiation. Public comments on environmental issues submitted in response to a previous notice (74 FR 66720) requesting comments from the public to assist USTR in formulating positions and proposals with respect to all aspects of the negotiation of a Trans-Pacific Partnership Trade Agreement will be taken into account in preparing the environmental review and do not need to be resubmitted.

DATES: Written comments are due by June 1, 2010.

ADDRESSES: *Submissions via on-line: http://www.regulations.gov.* For alternatives to on-line submissions, please contact Gloria Blue, Executive Secretary, Trade Policy Staff Committee (TPSC), at (202) 395–3475.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning written comments, please contact Gloria Blue at the above number. All other questions regarding the environmental review of the TPP trade agreement should be directed to David Brooks, Environment and Natural Resources Section, USTR, at (202) 395–7320.

SUPPLEMENTARY INFORMATION:

1. Background Information

On December 14, 2009, USTR notified Congress of the President's intent to enter into negotiations of the Trans-Pacific Partnership, a regional, Asia-Pacific trade agreement. The United States is entering into negotiations with the Trans-Pacific Partnership countries (Singapore, Chile, New Zealand, Brunei Darussalam, Australia, Peru and Vietnam) with the goal of shaping a high-standard, 21st century, regional agreement that will have broad-based membership. Through notices in the **Federal Register** and a public hearing (held March 4, 2009 in Washington, DC), the TPSC invited the public to provide written comments and/or oral testimony to assist USTR in amplifying and clarifying negotiating objectives for the proposed TPP and to provide advice on how specific goods and services and other matters should be treated under the proposed agreement (see 74 FR 4480; 74 FR 66720). Additional information about the proposed Trans-Pacific Partnership Free Trade Agreement can be found at *http://www.ustr.gov/tpp*.

2. Environmental Review

USTR, through the TPSC, will conduct an environmental review of the agreement consistent with Executive Order 13141 (64 FR 63169) and its implementing guidelines (65 FR 79442). Environmental reviews are used to identify potentially significant, reasonably foreseeable environmental impacts (both positive and negative), and information from the review can help facilitate consideration of appropriate responses where impacts are identified. Reviews address potential environmental impacts of the proposed agreement and potential implications for environmental laws and regulations. The focus of the review is on impacts in the United States, although global and trans-boundary impacts may be considered, where appropriate and prudent.

Environmental reviews were conducted for bilateral free trade agreements concluded with a number of TPP negotiating partners. Environmental reviews for the U.S.-Singapore FTA, the U.S.-Chile FTA, the U.S.-Australia FTA and the U.S.-Peru Trade Promotion Agreement are available on the USTR Web site: *http://www.ustr.gov/trade-topics/environment/environmental-reviews*. These reviews provide background information on the FTA partner, information on trade-related environmental issues in the context of the bilateral free trade agreement, as well as information on the approach to conducting environmental reviews.

3. Requirements for Submissions

Persons submitting comments must do so in English and must identify (on the first page of the submission) the "United States–Trans-Pacific Partnership Trade Agreement." In order to be assured of consideration, comments should be submitted by June 1, 2010.

In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions, using the *http://www.regulations.gov* Web site. Comments should be submitted under the following docket: USTR–2010–0010. To find the docket, enter the docket number in the "Enter Keyword or ID" window at the *http://www.regulations.gov* home page and click "Search." The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting "Notices" under "Document Type" on the search-results page, and click on the link entitled "Submit a Comment." (For further information on using the *http://www.regulations.gov* Web site, please consult the resources provided on the website by clicking on the "Help" tab.)

The *http://www.regulations.gov* Web site provides the option of making submissions by filling in a comments field, or by attaching a document. USTR prefers submissions to be provided in an attached document. If a document is attached, it is sufficient to type "See attached" in the "Type comment & Upload File" field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the "Comments" field.

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters "BC". Any page containing business confidential information must be clearly marked "BUSINESS CONFIDENTIAL" on the top of that page. Filers of submissions containing business confidential information must also submit a public version of their comments. The file name of the public version should begin with the character "P". The "BC" and "P" should be followed by the name of the person or entity submitting the comments or reply comments. Filers submitting comments containing no business confidential information should name their file using the character "P", followed by the name of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

USTR strongly urges submitters to file comments through *http://www.regulations.gov*, if at all possible. Any alternative arrangements must be made with Ms. Blue in advance of transmitting a comment. Ms. Blue should be contacted at (202) 395–3475.

General information concerning USTR is available at *http://www.ustr.gov.*

Carmen Suro-Bredie,

Chair, Trade Policy Staff Committee.

[FR Doc. 2010–6653 Filed 3–24–10; 8:45 am]

BILLING CODE 3190–W0–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2010–0005–N–4]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on January 20, 2010 (75 FR 3275).

DATES: Comments must be submitted on or before April 26, 2010.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292) or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On January 20, 2010, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. *See* 75 FR 3275. FRA received no comments after issuing this notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR. 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The unchanged requirements are being submitted for clearance by OMB as required by the PRA.

Title: Control of Alcohol and Drug Use in Railroad Operations.

OMB Control Number: 2130–0526.

Type of Request: Extension without change of a currently approved collection.

Affected Public: Railroads.

Form(s): FRA F 6180.73; 6180.74.

Abstract: The information collection requirements contained in pre-employment and "for cause" testing regulations are intended to ensure a sense of fairness and accuracy for railroads and their employees. The principal information—evidence of unauthorized alcohol or drug use—is used to prevent accidents by screening personnel who perform safety-sensitive service. FRA uses the information to measure the level of compliance with regulations governing the use of alcohol or controlled substances. Elimination of this problem is necessary to prevent accidents, injuries, and fatalities of the nature already experienced and further reduce the risk of a truly catastrophic accident.

Annual Estimated Burden Hours: 31,797 hours.

Addressee: Send comments regarding this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC, 20503, Attention: FRA Desk Officer.

Comments are invited on the following: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on March 22, 2010 .

Kimberly Coronel,

Director, Office of Financial Management, Federal Railroad Administration.

[FR Doc. 2010–6660 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Houma-Thibodaux to LA 3127 Connection; Terrebonne, Lafourche, Assumption, St. James, St. John the Baptist, St. Charles, and St. Mary Parishes, LA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Revised Notice of intent.

SUMMARY: The FHWA is issuing this Revised Notice of Intent (NOI) to advise the public and interested agencies of modifications to the scope and environmental review process for the Houma-Thibodaux to LA 3127 Connection Environmental Impact Statement (EIS). The project study area has been expanded due to resource agency concerns to include a potential alternative to the west in the vicinity of the LA 1 and LA 308 corridor to the Sunshine Bridge. FHWA also intends to utilize the environmental review provisions afforded under Section 6002 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). The EIS will build upon the environmental and technical studies and public comments and outreach conducted to date. This NOI revises the NOI that was

published in the **Federal Register** on June 7, 2004.

FOR FURTHER INFORMATION CONTACT: Carl M. Highsmith, Project Delivery Team Leader, Federal Highway Administration, 5304 Flanders Drive, Suite A, Baton Rouge, Louisiana 70808, Telephone 225–757–7615; Facsimile: (225) 757–7601 or Noel Ardoin, Environmental Engineer Administrator, Louisiana Department of Transportation and Development, PO Box 94245, Baton Rouge, Louisiana 70804, Telephone: (225) 242–4501; Facsimile: (225) 242–4500. Please refer to project designation numbers State Project No. 700–99–0302 & Federal Aid Project No. HP–9902(518) in any correspondence.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Louisiana Department of Transportation and Development (LADOTD), will prepare an Environmental Impact Statement (EIS) on a proposal to provide a functional north-south transportation link between the Houma-Thibodaux area and LA 3127 and to provide more direct access to I–10 to the north and future I–49 to the south. The proposed link would also serve as a hurricane evacuation route. The original NOI for this project was published in the **Federal Register**: June 7, 2004 (Volume 69, Number 109). Subsequent to scoping meetings and a public meeting that occurred after the original NOI, the project area was expanded west to address resource agency concerns. An additional alternatives screening study, which analyzed potential alternatives traversing the Bayou Lafourche Ridge, was conducted with the input of the public and resource agencies. As a result of the recommendations of the study, the project scope was revised to include an alternative within the expanded study area. Coordination with the resource agencies and the public will be conducted in early March 2010 to notify them that the project has restarted and to advise them that additional coordination will occur during the development of the reasonable range of alternatives for the project. In addition, previous studies conducted for the project are being updated.

Letters describing this proposal and soliciting comments will be sent to appropriate Federal, State, and local agencies and to private organizations and individuals that have previously expressed, or are known to have, an interest in this proposal. A series of agency and public meetings as well as a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.To ensure that the full range of issues related to this proposed action is addressed, and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on March 10, 2010.

Charles "Wes" Bolinger,

Division Administrator, FHWA, Baton Rouge, Louisiana.

[FR Doc. 2010–6536 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fifty-First Meeting: RTCA Special Committee 186: Automatic Dependent Surveillance—Broadcast (ADS–B)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 186: Automatic Dependent Surveillance—Broadcast (ADS–B) meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 186: Automatic Dependent Surveillance—Broadcast (ADS–B).

DATES: The meeting will be held April 13–16, 2010 from 8 a. m. on April 16th/ 9 a.m. on the other days unless stated otherwise.

ADDRESS: The meeting will be held at the RTCA Conference Rooms at 1828 L Street, NW., Suite 805, Washington, DC 20036

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036, (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 186: Automatic Dependent Surveillance—Broadcast (ADS–B) meeting. The agenda will include:

Specific Working Group Sessions

Tuesday, April 13

- RTCA—All Day, WG–1, SURF IA (Leaders), Garmin Room.
- RTCA—All Day, WG–4, Application Technical Requirements, Colson Board Room.

Wednesday, April 14

- RTCA—All Day, WG–1, SURF–IA (Leaders), Garmin Room.
- RTCA—All Day, WG–1, Wake Vortex, ARINC Room.
- RTCA—All Day, WG–4, Application Technical Requirements, Colson Board Room.

Thursday, April 15

- RTCA—All Day, WG–1, SURF IA (Leaders), Garmin Room.
- RTCA—All Day, WG–1, Wake Vortex, MacIntosh-NBAA Room & Hilton-ATA Room.
- RTCA—All Day, WG–4, Application Technical Requirements, Colson Board Room.

Friday, April 16

Plenary Session—See Agenda Below

Joint RTCA SC–186/EUROCAE WG–51

Agenda—Plenary Session—Agenda

April 16, 2010

(RTCA—Washington, DC—MacIntosh-NBAA Room & Hilton-ATA Room and EUROCAE)

Starting at 8 a.m. at RTCA and 2 p.m. in Europe

(*WebEx and Phone Bridge information To Be Provided*)

- Chairman's Introductory Remarks, Review of Meeting Agenda.
- Review/Approval of the Fiftieth Meeting Summary, RTCA Paper No. 011–10/SC186–292.
- Consider for Approval—New Document—*Safety, Performance and Interoperability Requirements Document for ATSA–SURF Application,* RTCA Paper No. 018–10/SC186–293.
- FAA Surveillance and Broadcast Services (SBS) Program—Status.
- Review of EUROCAE WG–51 Activities.
- Date, Place and Time of Next Meeting.
- Working Group Reports.
  - WG–1—Operations and Implementation.
  - WG–2—TIS–B MASPS.
  - WG–3—1090 MHz MOPS.
  - WG–4—Application Technical Requirements.
  - WG–5—UAT MOPS.
  - WG–6—ADS–B MASPS.
  - RFG—Requirements Focus Group.

- ADS–B IM Coordination with SC–214 for Data Link Requirements—Discussion—ISRA Review/Approval.
- Revised Terms of Reference (TOR)—Discussion—Review/Approval.
- New Business.
- Other Business.
- Review Action Items/Work Programs.
- Adjourn Plenary.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 19, 2010.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 2010–6667 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Third Meeting: RTCA Special Committee 223: Airport Surface Wireless Communications

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 223: Airport Surface Wireless Communications meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 223: Airport Surface Wireless Communications.

DATES: The meeting will be held April 13–14, 2010 from 9 a.m.–5 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a RTCA Special Committee 223: Airport Surface Wireless Communications meeting. *The agenda will include:*

Tuesday, April 13, 2010

Tuesday Morning—Plenary

- Opening Session (Welcome, Introductions, Administrative Remarks, Approve/Review Meeting #2 Summary, RTCA Paper No. 045–10/SC223–005)
- Special Committee Leadership
- Designated Federal Official (DFO): Mr. Brent Phillips
- Co-Chair: Mr. Aloke Roy, Honeywell International
- Co-Chair: Mr. Ward Hall, ITT Corporation
- Agenda Overview
- Report from EUROCAE WG 82 meeting
- AeroMACS Profile Working Group Status
- 2nd Plenary action item status
- Assignment of MOPS working group leader

Tuesday Afternoon—Profiles WG Breakout Session

- Document Structure
- Technical work on AeroMACS Profile

Wednesday, April 14, 2010

Wednesday Morning—Profiles WG Breakout Session

- Continue AeroMACS Profile definition

Wednesday Afternoon—Reconvene Plenary

- Profiles WG Status Report and Plenary Guidance
- Establish Agenda, Date and Place for the next plenary meeting
- Review of Meeting summary report
- Adjourn—Expected by 3 p.m. on April 14

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 19, 2010.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 2010–6668 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2010–07]

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 April 14, 2010.

ADDRESSES: You may send comments identified by Docket Number FAA–2010–0101 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, 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 March 19, 2010.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2010–0101.

Petitioner: Air Canada.

Section of 14 CFR Affected: 14 CFR 93.123(a).

Description of Relief Sought:

Air Canada requests an exemption from the limit for DCA set forth in § 93.123(a), to permit the FAA to create commuter slots during certain limited hours for Air Canada's use. The proposed commuter slots would replace expiring slots currently held by Air Canada and used to provide service from DCA to points in Canada. Specifically, Air Canada desires one daily slot during each of the 1100, 1200, 1800, 1900, 2000 and 2100 hours. The proposed exemption would permit Air Canada to continue operating its existing services.

[FR Doc. 2010–6552 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2010–0031; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1991 Porsche 911 Series Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1991 Porsche 911 series passenger cars, are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1991 Porsche 911 series passenger cars that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) are eligible for importation into the United States because they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the 1991 Porsche 911 series passenger cars), and they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is April 26, 2010.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

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

Instructions: Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

How to Read Comments submitted to the Docket: You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies, LLC ("JK"), of Baltimore, Maryland (Registered Importer 90–006) has petitioned NHTSA to decide whether nonconforming 1991 Porsche 911 series passenger cars are eligible for importation into the United States. The vehicles which JK believes are substantially similar are 1991 Porsche 911 series passenger cars that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner states that it compared non-U.S. certified 1991 Porsche 911 series passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with

respect to compliance with most FMVSS.

JK submitted information with its petition intended to demonstrate that non-U.S. certified 1991 Porsche 911 series passenger cars, as originally manufactured, conform to many FMVSS in the same manner as their U.S.-certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1991 Porsche 911 series passenger cars are identical to their U.S.-certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic and Electric Brake Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch System,* 116 *Motor Vehicle Brake Fluids,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Disks, and Hub Caps,* 212 *Windshield Mounting,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity* , and 302 *Flammability of Interior Materials.*

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* replacement of the instrument cluster with a conforming U.S.-model component.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* installation of the following conforming U.S.-model components on vehicles that are not already so equipped: (a) Front side marker lamps; (b) headlamps; (c) tail lamps with integral rear side marker lamps; and (d) a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* installation of a conforming U.S.-model passenger side rearview mirror, or inscription of the required warning statement on the face of that mirror.

Standard No. 114 *Theft Protection:* installation of a supplemental key warning buzzer to ensure that the theft protection system meets the requirements of this standard.

Standard No. 118 *Power-Operated Window, Partition, and Roof Panel Systems:* installation of a supplemental interlock relay to ensure that the power-operated window system meets the requirements of this standard.

Standard No. 208 *Occupant Crash Protection:* installation of a supplemental seat belt warning buzzer to ensure that the seat belt warning system meets the requirements of this standard.

The petitioner states that the occupant restraint systems used in vehicle consist of a driver's side air bag, and combination lap and shoulder belts at the front and rear outboard seating positions.

Standard No. 214 *Side Impact Protection:* installation of U.S.-model door reinforcement beams.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicles near the left windshield post to meet the requirements of 49 CFR Part 565.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 19, 2010.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2010–6567 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2010–0030]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel CRISTOBAL.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2010–0030 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before April 26, 2010.

ADDRESSES: Comments should refer to docket number MARAD–2010–0030. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel CRISTOBAL is:

Intended Commercial Use of Vessel: "weekly charters of six or fewer passengers along the coast of New England."

Geographic Region: "waters off the coast of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut."

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: March 17, 2010.

By Order of the Maritime Administration.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. 2010–6613 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2010–0026]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel QUICKSILVER.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2010–0026 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before April 26, 2010.

ADDRESSES: Comments should refer to docket number MARAD–2010–0026. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov http://smses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel QUICKSILVER is:

Intended Commercial Use of Vessel: "Watersports program, charter for hire."

Geographic Region: "Florida."

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By order of the Maritime Administrator.

Dated: March 16, 2010.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. 2010–6616 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2010–0029]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel ISLAND DESTINY.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2010–0029 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before April 26, 2010.

ADDRESSES: Comments should refer to docket number MARAD–2010–0029. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version

of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ISLAND DESTINY is:

Intended Commercial Use of Vessel: "Carrying passengers for hire, 6 passengers."

Geographic Region: "California, Washington."

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: March 18, 2010.

By Order of the Maritime Administrator.

Dated: March 17, 2010.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. 2010–6626 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2010–0028]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel SENTIMENTAL JOURNEY.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2010–0028 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before April 26, 2010.

ADDRESSES: Comments should refer to docket number MARAD–2010–0028. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.govhttp://smses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SENTIMENTAL JOURNEY is:

Intended Commercial Use of Vessel: "coastal charter."

Geographic Region: "Florida."

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administration.

Dated: March 16, 2010.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. 2010–6615 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2010–0027]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel CLOUD NINE.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2010–0027 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before April 26, 2010.

ADDRESSES: Comments should refer to docket number MARAD–2010–0027. Written comments may be submitted by

hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel CLOUD NINE is:

Intended Commercial Use of Vessel: "Charter."

Geographic Region: "FL, MI, WI, IL."

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: March 16, 2010.

By Order of the Maritime Administrator.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. 2010–6603 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; James N. Cox Dayton International Airport, Dayton, OH

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 9.167 acres of airport property for future non-aeronautical use. The land consists of portions of 2 original airport acquired parcels. These parcels were acquired by the City of Dayton from the U.S. Government, Department of Housing and Urban Development without federal participation. There are no requirements to retain the land for airport use. There are no impacts to the airport by allowing the City of Dayton to lease the property. The land is not needed for aeronautical use. Approval does not constitute a commitment by the FAA to financially assist in the lease of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the lease of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999. 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 April 26, 2010.

ADDRESSES: Written comments on the Sponsor's request must be delivered or mailed to: Irene R. Porter, Program Manager, Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, MI 48174

FOR FURTHER INFORMATION CONTACT: Irene R. Porter, Program Manager, Federal Aviation Administration, Great Lakes Region, Detroit Airports District Office, DET ADO–607, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174. Telephone Number (734–229–2915)/FAX Number (734–229–2950). Documents reflecting this FAA action may be reviewed at this same location or at James M. Cox Dayton International Airport, Dayton, Ohio.

SUPPLEMENTARY INFORMATION:

Parcel 1

Situated in the Township of Butler, County of Montgomery, State of Ohio and located in Section 9, Town 3, Range 6 East, more particularly described as follows:

Beginning at the intersection of the center lines of Maintenance Drive and Wright Drive; thence northwardly, along the center line of Maintenance Drive, a distance of 250.00 feet to a point; thence north 89 degrees 58′ 45″ east a distance of 30.00 feet the point of beginning of the above described property; thence north 0 degrees 1′ 15″ east a distance of 441.59 feet to a point; thence north 89 degrees 58′ 45″ east a distance of 667.83 feet to a point; thence south 0 degrees 1′ 15″ west a distance of 441.59 feet to a point; thence south 89 degrees 58′ 45″ west a distance of 667.83 feet to a point of beginning.

Containing 6.78 acres.

Parcel 2

Situated in Section 9, Town 3, Range 6 East, in the City of Dayton, Montgomery County, Ohio, being part of a 17.16 acre tract (Parcel 16) conveyed to The City of Dayton as recorded in Deed Book 1616, Page 505 and part of a 12.07 acre tract (Parcel 21) conveyed to The City of Dayton as recorded in Deed Book 1692, Page 321 (Parcel numbers as shown on the James M. Cox Dayton International Airport Annexation Area as recorded in Plat Book 112, Pages 26) (all references to Deed Books, Official Records, Microfiche numbers, Survey Records and Plats refer to the Montgomery County Recorders Office, Montgomery County, Ohio) and being a tract of land more particularly described as follows:

Commencing from the intersection of the centerline of Maintenance Drive and the centerline of Wright Drive as shown on the plat for General Aviation Center No. 1 Streets Hangar Drive, Maintenance Drive, McCauley Drive and Wright Drive Dedications as recorded in Plat Book 178, Page 51, thence along the centerline of said Maintenance Drive North 01°01′58″ East, 250.00 feet;

Thence South 89°00′32″ East, 30.00 feet to the southwest corner of an existing 6.78 acre USATS Lease Parcel;

tThence along the south line of said lease parcel South 89°00′32″ East, 667.83 feet to the southeast corner of said lease parcel;

Thence along the east line of said lease parcel North 01°01′58″ East, 200.86 feet to the Point of Beginning of the following described tract of land;

Thence continuing along said east line North 01°01′58″ East, 231.55 feet;

tThence through said Parcels 16 and 21 the following seven (7) described courses;

(1) North 88°41′43″ East, 102.81 feet;
(2) North 89°18′18″ East, 102.81 feet;
(3) South 72°26′00″ East, 18.06 feet;
(4) North 88°55′06″ East, 13.08 feet;
(5) North 76°00′39″ East, 3.00 feet;
(6) North 32°43′15″ East, 3.00 feet;
(7) North 04°27′14″ West, 9.59 feet to the south right-of-way line of Mccauley Drive;

Thence along the south right-of-way line of Mccauley Drive South 88°54′06″ East, 155.28 feet;

Thence through said Parcels 16 and 21 the following eleven (11) described courses;

(1) South 37°21′55″ East, 9.00 feet;
(2) South 75°02′54″ East, 9.00 feet;
(3) North 88°36′43″ East, 14.14 feet;
(4) South 01°08′13″ East, 197.74 feet;

(5) South 88°00′47″ West, 18.81 feet;
(6) South 59°24′45″ West, 16.50 feet;
(7) South 14°07′30″ West, 16.50 feet;
(8) South 88°49′23″ West, 178.75 feet;
(9) thence South 01°17′06″ East, 29.75 feet;
(10) South 88°56′1O″ West, 165.36 feet;
(11) North 60°38′16″ West, 58.42 feet to the Point of Beginning, containing 2.387 acres.

Issued in Romulus, Michigan, on March 5, 2010.

Joe Hebert,

Acting Manager, Detroit Airports District Office, FAA, Great Lakes Region.

[FR Doc. 2010–6556 Filed 3–24–10; 8:45 am]

BILLING CODE 4910–13–M

Reader Aids

Federal Register

Vol. 75, No. 57

Thursday, March 25, 2010

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